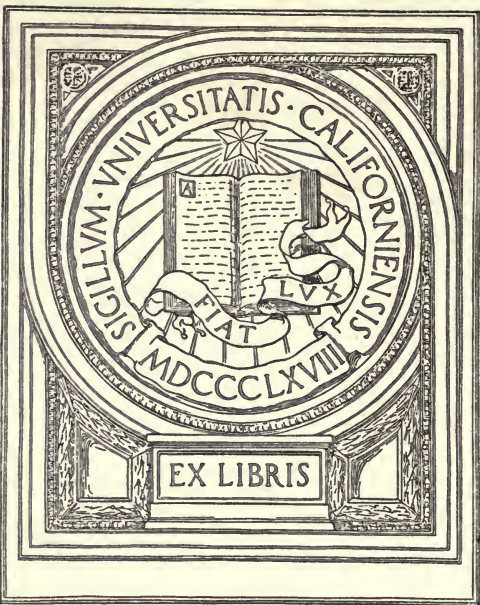


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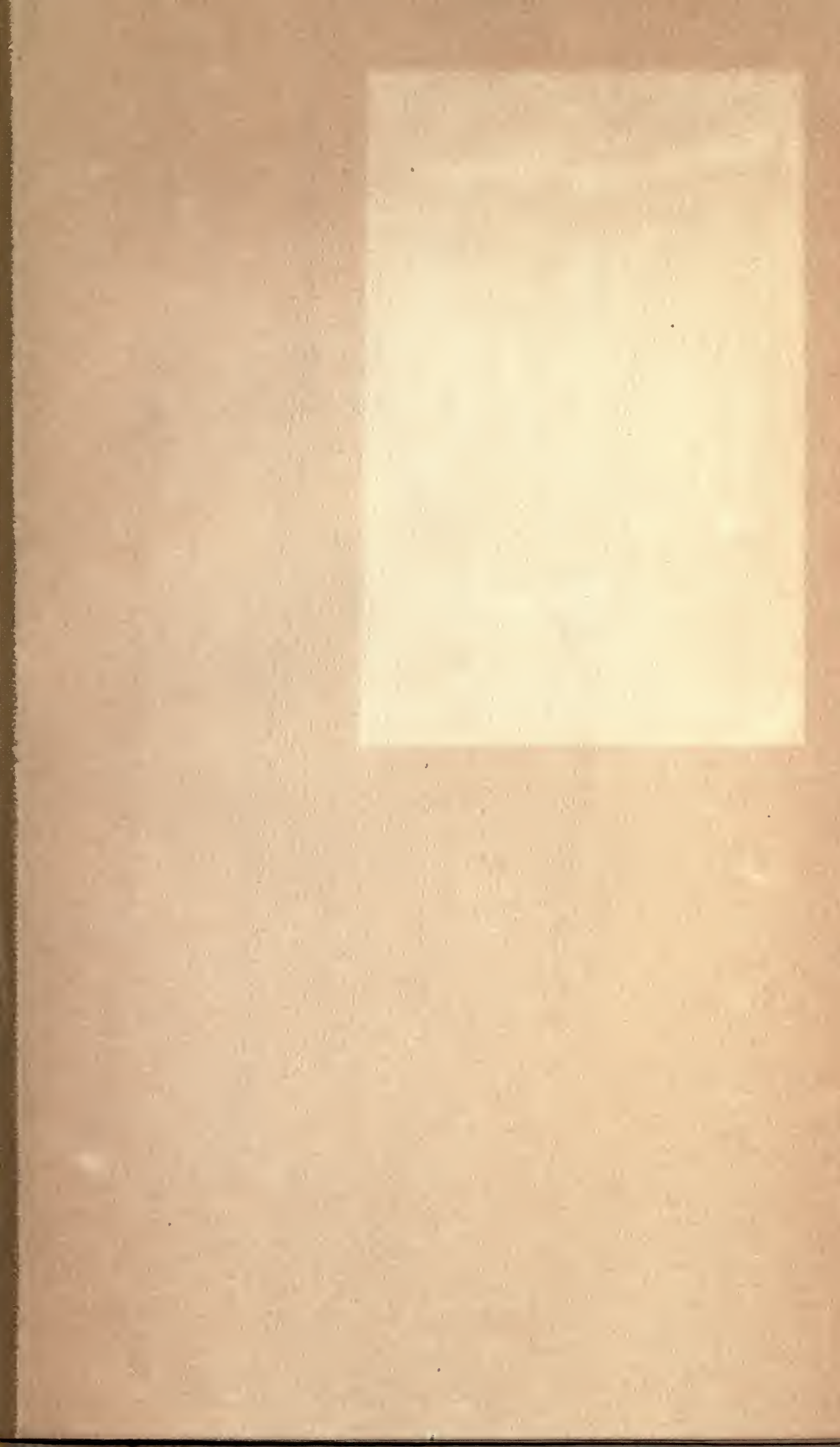
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RECONSTRUCTION.

Speech of Hon. Wm. M. Stewart,

OF NEVADA.

Delivered in the Senate of the United States, February 3d, 1868.

Mr. PRESIDENT :—I understand the question before the Senate to be the resolution of instruction offered by the Senator from Wisconsin, [Mr. DOOLITTLE] I call for the reading of that resolution.

The Secretary read it, as follows :

Resolved, That the bill of the House be referred to the Committee on the Judiciary with the following instructions :

And that said committee be instructed in said bill or in any other bill which may be reported by them having reference to the question of reconstruction, so called, in any of the States not represented in the present Congress to insert the following proviso :

Provided, nevertheless, That upon an election for the ratification of any constitution, or of officers under the same, previous to its adoption in any State, no person not having the qualifications of an elector under the constitution and laws of such State previous to the late rebellion shall be allowed to vote, unless he shall possess one of the following qualifications, namely :

1. He shall have served as a soldier in the Federal Army for one year or more ;
2. He shall have sufficient education to read the Constitution of the United States and to subscribe his name to an oath to support the same ; or,
3. He shall be seized in his own right, or in the right of his wife, of a freehold of the value of two hundred and fifty dollars.

Mr. STEWART — This somewhat remarkable proposition is evidently taken from the dispatch of the President to the provisional governor of Mississippi on the fifteenth day of August, 1865, which I ask the Secretary to read.

The Secretary read as follows :

EXECUTIVE OFFICE,

WASHINGTON, D. C., August 15th, 1865.

Governor W. L. SHARKEY, Jackson, Mississippi :

I am gratified to see that you have organized your convention without difficulty. I hope that without delay your convention will amend your State constitution—abolishing slavery and denying to all future Legislatures the power to legislate that there is property in man ; also that they will adopt the amendment to the Constitution of the United States abolishing slavery. If you could extend the elective franchise to all persons of color who can read the Constitution of the United States in English and write their names, and to all persons of color who own real estate valued at not less than two hundred and fifty dollars and pay taxes thereon, you would completely disarm the adversary and set an example the other States will follow. This you can do with perfect safety, and you thus place the Southern States in reference to free persons of color upon the same basis with the free States. I hope and trust your convention will do this, and, as a consequence, the Radicals, who are wild upon negro franchise, will be completely foiled in their attempt to keep the Southern States from renewing their relations to the Union by not accepting their Senators and Representatives.

ANDREW JOHNSON,

President of the United States.

Mr. STEWART—I quote this dispatch because I desire to call the attention of the Senate and of the country to the fact that the President and his Southern friends had some common "adversary" at that early date whom he proposed to "disarm." And this adversary he designates as the "Radicals, wild upon negro franchise." They are by him to be completely

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ures of Congress are constitutional. They have extended from the first that every war measure was unconstitutional, and their position is consistent and well understood. But those who maintain that it was constitutional to suppress the rebellion will find it difficult to question the constitutionality of the law necessary for the restoration of the rebel States. The rebels overthrew the State governments and established rebel organizations. Those who admit the right of the Government to suppress the rebellion will scarcely contend that these rebel organizations were entitled to all the rights and privileges of States in the Union, including the right to be represented in the counsels of the nation and to participate in the conduct of the war. But the United States overthrew these rebel organizations, leaving neither rebel nor loyal organizations existing in these States. The fact that no civil governments of any kind existed in the late confederacy after the suppression of the rebellion is as well established as any fact of history. President Johnson so declared in his proclamation of May 29th, 1865, and no one has ever questioned the truth of that declaration.

If no civil governments existed it will not be denied that it was necessary to organize State governments before any could exist. But States are organized by the people. Neither Congress, nor the President, nor the Supreme Court, nor all three departments combined can organize a State. State governments must emanate from the people. But some power in the Government must determine whether State organizations are properly made and whether they are republican in form, and that power is Congress. Congress may prescribe in an enabling act the necessary conditions upon which a State government would be acceptable, as it has done in regard to most of the new States; or it may wait and admit or reject a proposed constitution. The enabling act for Nevada required several conditions precedent to be incorporated in the proposed constitution of the new State, namely: slavery must be prohibited, religious toleration must be secured, all claim to the public lands must be renounced, non-residents must not be taxed more than residents, and lands of the United States must not be taxed.

Similar provisions may be found in every enabling act passed by Congress. It was never supposed that stating these terms in advance interfered with the right of the people to organize their own State governments.

They might accept the conditions or not, as they pleased. If the people of the proposed State should omit them Congress could not insert them in the Constitution, but would be forced either to waive the conditions or make their adoption a condition of admission, or reject the proposed State. In either case Congress would be supported by precedents. Missouri presented a constitution which contained a provision denying the right of free colored persons to enter the State, and Congress admitted the State upon condition that the Legislature would pass a resolution agreeing not to enforce that provision of her constitution.

Nebraska was admitted about a year ago upon condition that the Legislature would extend impartial suffrage without regard to color.

In the enabling acts known as the reconstruction measures, Congress exercised the same powers that it did in the enabling act for Nevada and other States. It prescribed certain principles that must be incorporated in the constitution, and determined the qualification of voters in organizing a State. All this was done in the enabling act for Nevada.

The Senator from Pennsylvania [Mr. Bucklew] could not have examined these enabling acts when he ventured the assertion that Congress was organizing State governments in the South. The determination of the question of what shall be required in the constitution of a new State must be left to that department of the Government which the Constitution authorizes to admit new States. The language of the Constitution is, "new States may be admitted by the Congress into the Union." The admission of new States is not an executive or a judicial act, but a legislative act. If the proclamation of the President by which he authorized the formation of a State government in North Carolina, issued on the twenty-ninth day of May, 1865, is to be regarded in the light of an enabling act by which Congress and the Supreme Court are to be

bound, it was an act of unqualified usurpation. It was the performance of an act delegated in express terms to Congress. For, if the people of North Carolina had been deprived by the rebellion of all civil government as declared in that proclamation, and a necessity had been created for a new State organization, an enabling act under which the people might organize such a new government could only be passed by Congress. On an examination of this proclamation and the various amendatory proclamations and conditions that were prescribed by the President, it will be seen that the qualification of voters was fixed arbitrarily, excluding some rebels and allowing others to vote, and excluding the entire colored population, so as to allow governments to be organized by a minority of the people, and this minority intensely disloyal. He also prescribed what should be contained in the new constitutions—slavery should be prohibited and the rebel debt repudiated. I say, again, if this proclamation was to be enforced upon the other departments of the Government as a law, it was usurpation. But if it was only intended as a provisional exercise of military power, subject to the supervision of Congress, it was wise or unwise, depending upon the merits of the plan proposed. An assurance was given to the country that no other construction would be claimed for those proclamations in a dispatch to the provisional Governor of Florida, dated September 12th, 1865, in the following words :

DEPARTMENT OF STATE,
WASHINGTON, September 12, 1865.

SIR: Your Excellency's letter of the 29th ultimo, with the accompanying proclamation, has been received and submitted to the President.

The steps to which it refers, toward reorganizing the government of Florida, seem to be in the main judicious, and good results from them may be hoped for. The presumption to which the proclamation refers, however, in favor of insurgents who may wish to vote, and who may have applied for, but not received, their pardons, is not entirely approved. All applications for pardons will be duly considered, and will be disposed of as soon as may be practicable. *It must, however, be distinctly understood that the restoration to which your proclamation refers will be subject to the decision of Congress.*

I have the honor to be your Excellency's obedient servant,

WILLIAM H. SEWARD.

His Excellency WILLIAM MARVIN.

But the subsequent conduct of the President in attempting to maintain this proclamation as the paramount law, which Congress could neither disregard, repeal, or modify, must be admitted by all impartial men as unwarranted usurpation of power delegated to another department.

But it is said that the Congress invokes the military in aid of reconstruction. It certainly does provide military protection in order that the people may act freely and voluntarily. The President did the same, only in a more harsh and arbitrary manner, governing the whole people by martial law, while a favored class were organizing governments to oppress the majority. Why is it that neither the rebels nor peace Democrats make complaint against these Johnson organizations? Why are they treated as constitutional? Is it because they find authority in that instrument to justify them? Is it because they construe the Constitution to authorize the Executive to admit new States, or to guaranty to each State a Republican form of government? Or is it because these organizations are rebel, and subserve the purposes of the peace Democracy better than loyal organizations would or could? Why do they want these provisional governments to stand and be recognized as States? Is it devotion to the Constitution; or to party?

The Senator from Pennsylvania contended that this Congress did not represent the people. First, because there had been Democratic gains in several State elections since the last congressional election; and second, because New England and the far West were allowed to take part in the councils of the nation. As to the first reason, it is sufficient to say that local causes, prejudices and official corruption in the administration of the revenue laws occasioned dissatisfaction, as indicated in the fall elections. But the recent congressional election in Ohio, to fill the vacancy occasioned by the death of Mr. Hamilton, indicates that the people of that State still adhere to the congressional plan. But what right has he to say that a Congress elected by the overwhelm-

ing votes of the people have no right to speak for their constituents? As to the right of New England to full representation upon this floor, what patriot dares question it? To New England the nation owe a debt of gratitude beyond its capacity to pay. To New England civil liberty, science and civilization owe more than to any other region of three times its extent upon which the sun has ever shone. It is the spirit of New England that gives life, energy and stability to the whole nation. The sons of New England are found everywhere, in every State, in every neighborhood where free schools, free churches, and free speech are tolerated and protected, and where enterprise and prosperity find a home. Who is not proud of New England, and who would deprive her of her full share and responsibility in maintaining free government in the United States?

As to Nevada and the sparsely-settled States of the West, the time is not far distant when they will be sufficient in numbers and influence to command respect. The natural advantages of that great country west of the Rocky Mountains are being rapidly developed by an enterprising and liberty-loving people. Nevada can afford to endure the sneers of that party who would place this country under rebel rule. She is loyal; she is rich in natural resources; she is contributing annually to the wealth of the world twenty millions of the precious metals; her mines are extensive and inexhaustible; and although she has deserts and wastes, she has more fertile lands than some of the large and populous States. Before another census is taken, her population will far exceed the requirements of the Senator from Pennsylvania for the organization of a new State. At the time of her admission, her population exceeded that of many of the new States when admitted; and her registered vote to-day exceeds the registered white vote in one, at least, of the ten rebel States, which the Senator is anxious to receive on the white rebel basis, and which for twenty years was represented by two Senators on this floor. I deny that the Republican party in admitting new States have departed from the rule that the Democrats adopted. Nevada, admitted by the Republican party, had a

population at the time of her admission equal to the population of Oregon when she was admitted by the Democrats. The population of Nebraska exceeded that of Florida or Arkansas.

But what do the Democratic party propose? The party that denied the right of the Government to suppress the rebellion; that obstructed the draft; that voted against supplies for the army; that declared the war a failure; that declared the emancipation of the slaves unconstitutional? How do they propose to gain political power from the results of the war? Do they propose to increase their power by fair means? Examine their programme. Is there nothing in it dictated by partizan zeal?

While slavery existed five slaves were counted equal to three American citizens in the basis of representation. But the rebellion, which destroyed slavery and made four millions new citizens, changed the basis of representation, and with the present apportionment increased the representation of the rebel States from fifteen to twenty members. But on the Democratic theory the four million colored persons in the South are first to be denominated brutes, and denied all rights of representation or self-protection; and second, the rebels are to have representation in the Halls of Congress for these four millions men. In other words, on all the days in the year save one the negro is set off as one of the beasts of the field; but on the day the census taker makes his appearance he is set up on his hind legs and called a man. According to the showing of the Senator from Pennsylvania, the South would be indebted for nearly one-half of her representation to her colored population. The State of South Carolina would have more representation on account of her colored than her white population.

The Republican party maintain that the power of the rebels to control this Government ought not to be increased, because they attempted to destroy it; that it is unsafe to reward rebellion by this vast increase of political power, and that a white man in Massachusetts or Ohio is as good as a white man in South Carolina or Florida, and entitled to equal representation. But the Democratic theory is, that although the black

man is unfit to vote, still he is fitted to be represented by rebels, and to make a stand-off against a loyal white man of the North. I do not pretend to deny the fact that the Union party desire to continue in power, and the same is true of the Democratic party, and the same has been true of all parties from the foundation of the Government.

But the real question is, how is the power of this Government to be used—for good or evil? What are the purposes of these two great parties? Who are their leaders and who will control their destinies? The record of the great mass of the Democratic party is either the record of rebels or peace Democrats. The party, with all its discordant elements, has been true in its opposition to every effort made by the Government to enforce the laws and preserve the Union. The southern wing of the party inaugurated the rebellion, while the northern wing denied the right of the Government to repress it. Can any important law, act, or proclamation for the preservation of this Government be shown that has not been assailed alike by rebels and peace Democrats as unconstitutional? And, on the other hand, has the constitutionality of the rebellion or any act of secession been violently assailed by either wing of the Democracy? What does the Democratic party, reinforced by the Senator from Wisconsin [Mr. DOOLITTLE] and his executive master, propose to do if they attain power? They are all violently opposed to the fourteenth article of the Constitution proposed by the Thirty-Ninth Congress. Why are they opposed to it? Is it not fair to presume that they want to do the thing which it prohibits? And we have only to examine its provisions and see what it does prohibit to understand what the Democratic party with its new recruits propose to do.

The first section declares that all men born in the United States are citizens, and secures to every citizen of the United States the protection of the laws in his civil rights. Why do the conservators of rebellion oppose this provision if they intend that slavery shall be abolished and all men protected in person and property? Does not the opposition they made to the civil rights bill indicate that they mean wrong and oppress-

ion, and some form of slavery under another name? Why has there been such a contest over the question of civil rights if the opposition were willing to grant them? The country has not forgotten the veto message of the President, nor his war upon the constitutional amendment, nor the fact that the rebels refused to execute the law, nor the fact that the Johnson governments in the South passed inhuman and cruel laws against the colored man, nor the fact that those organizations refused to ratify the constitutional amendment. The loyal people see in all this violent opposition to extending civil rights, the fixed purpose of every wing and faction of the obstructionists to reduce the negro to a degraded peon, more wretched than a slave.

The second section of the constitutional amendment, provides, that if the negro does not vote, he shall not be counted in the basis of representation. But the violent opposition that this section has received, shows a desperate determination on the part of the rebels, to off-set four millions negroes, without political rights, against four millions educated, intelligent white men in the North.

The third section of the constitutional amendment, provides, that the national obligations incurred in the suppression of the rebellion, shall not be repudiated, and that the loyal North shall neither be taxed to pay the rebel debt, nor to compensate the rebels for emancipated slaves. Why object to this, unless the Democratic party intend either to repudiate the Federal debt, pay the rebel debt, or compensasate the late slaveholders for emancipation? They are willing to put provisions of this kind in State laws, and perhaps in State constitutions, all of which can be altered or amended by themselves. Is not the fact, that they will not agree to place this section in the Constitution, suspicious, to say the least, and is there anything in the history of their past conduct to allay that suspicion, or guaranty good faith in the future?

The fourth section provides, that those, who previous to the rebellion, held any office which required them to take an oath to support the Constitution of the United States, and subsequently participated in the rebellion, shall not hold office until Congress by a two thirds vote

removes the disability. What objection can the Democratic party have to this, unless they want the leading rebels to hold office. It deprives no man of voting or of any civil rights, but simply excludes leading rebels from office. It applies to but a very small class. The young men are all exempt from any disability whatever. The provision is not applicable to any person under twenty-nine years of age. For to have held office previous to 1860, a man must have been at that time, at least, twenty-one years old, and it is now 1868, making the youngest man to whom the disqualification can apply at present twenty-nine. The Senator from Pennsylvania estimates the number excluded from office, at about three hundred thousand, but the basis of his calculation will scarcely bear investigation. He takes the census report of 1860 of the white males over twenty-one, and subtracts from that number the whites who have registered under the reconstruction acts, and makes the difference about three hundred thousand. But he omits from the calculation those who were killed in the war, those who have left the South, and those who have refused to register.

The fact is, that there are not more than twenty or thirty thousand deprived of holding office in the whole South, and most of them would be at once relieved if they would cease rebellion against the lawful authorities of the Government. This number is not large—not half as many as the nation lost by starvation in rebel prisons, under the inhuman management of the constituted authorities of the late confederacy.

Tennessee ratified this amendment, and Congress ratified and gave legitimacy to her State organization. The balance of the rebel States, being under the absolute control of those organizations, formed under the President's proscriptive policy, refused to comply with any terms. At the commencement of the session a year ago, each of the ten rebel provisional governments occupied a defiant attitude against the authority of this Government. Only those of the South were allowed to speak who would speak the sentiments of the military dictator, who had usurped the whole power of the Government in all the late confederacy, except Tennessee. He told them to

demand representation for themselves, based upon the whole population, over half of which was disfranchised, and they obeyed; he told them to demand office and place for leading rebels, and they obeyed; he told them by his acts to reduce the negro by legislation to a peon, and they obeyed; he told them to remain uncommitted in any irrevocable way, either to the payment of the national debt, or the repudiation of the rebel debt, and they obeyed. He tolerated their persecution of loyal men, and refrained from the execution of the law, and allowed wrong and oppression and assassination to go unpunished. Loyalty was truly odious in the South. What was to be done? Was there any power in this Government to organize those communities upon a loyal basis? If there was, who shall say that it was not the duty of the last Congress to make the effort?

But it is self-evident that a loyal republican government cannot be established without a loyal constituency. Five-sixths of the white population were disloyal, and consequently any government based upon white votes alone, must necessarily be hostile to the United States, so that only three things were possible. First, let the rebels dictate terms, and let loyalty be made odious, and treason honorable. This, Congress dare not do. The second was, to place the South under permanent military rule. This was regarded as expensive and dangerous to our free institutions. The third was, to give all the citizens of the United States, black and white, a fair chance to organize loyal republican governments, excluding only a small number that was regarded as dangerous to the public peace. This was done, and the military were required to protect all the people while they were engaged in the organization of these governments. Did the Government possess the constitutional power to do this?

Upon the question of the constitutional power of Congress to pass these laws so much has been said, and so well said, that further comment would seem unnecessary; but, inasmuch as the labors of the Opposition are all directed to the great purpose of destroying confidence in Congress, by showing that we disregard the Constitution, I will pursue the subject further, and ask the Clerk to read from Story on the Constitution, showing

both the views of Judge Story and Mr. Madison, for the larger portion of what I desire to have read is a quotation from the Federalist :

"SEC. 1813. The fourth section of the fourth article is as follows: 'The United States shall guaranty to every State in the Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature, or of the Executive when the Legislature cannot be convened, against domestic violence.'

"SEC. 1814. The want of a provision of this nature was felt as a capital defect in the plan of the confederation, as it might, in its consequences, endanger if not overthrow the Union. Without a guarantee, the assistance to be derived from the national Government in repelling domestic dangers which might threaten the existence of the State constitutions, could not be demanded as a right from the national Government. Usurpation might raise its standard and trample upon the liberties of the people, while the national Government could legally do nothing more than behold the encroachment with indignation and regret. A successful faction might erect a tyranny on the ruins of order and law, while no succor could be constitutionally afforded by the Union to the friends and supporters of the Government. But this is not all. The destruction of the national Government itself, or of neighboring States, might result from a successful rebellion in a single State. Who can determine what would have been the issue, if the insurrection in Massachusetts, in 1787, had been successful, and the malcontents had been headed by a Caesar or a Cromwell? If a despotic or monarchical government were established in one State, it would bring on the ruin of the whole Republic. Montesquieu has acutely remarked, that confederate governments should be formed only between States whose form of government is not only similar, but also republican.

"SEC. 1815. The Federalist has spoken with so much force and propriety upon this subject, that it supercedes all further reasoning. 'In a confederacy,' says that work, 'founded on republican principles, and composed of republican members, the superintending government ought clearly to possess authority to defend the system against aristocratic or monarchical innovations. The more intimate the nature of such a union may be, the greater interest have the members in the political institutions of each other, and the greater right to insist that the forms of government under which the compact was entered into, should be substantially maintained.'"

The Opposition say that this guarantee has no application to the rebel States, but fail to inform us in what case the guarantee should be executed. Their arguments, so far as I am able to under-

stand them, treat this provision of the Constitution as a nullity; for if the Government could only exercise its sovereign power to guaranty to a State a republican form of government which already has one in full operation and needs no assistance, the grant of power is useless and can never be exercised. But we believe that every part of the Constitution has some meaning, and that the framers of that instrument intended something when they said the United States should guaranty to every State in the Union a republican form of government. ~~MACROFT LIBR~~

It seems to have been regarded as possible by the Convention that a State might be overthrown and its republican system destroyed; and that in such a case it might need aid from the central authority to maintain republican government.

This might occur in various ways. The people might elect a king; they might limit the franchise to an aristocracy of nobles; they might destroy all government and create anarchy.

These were some of the dangers suggested at the time as a reason for a grant of power.

The learned and able Senator from Maryland [Mr. JOHNSON] contended that the rebel States did not furnish a proper case for the exercise of this power, but failed to tell us when and how the United States should interfere to secure republican government to a State having no government. He appeared to regard it in the same light that Buchanan regarded secession—a wrong without a remedy—*damnum absque injuria*.

First, he said that the meaning of the Constitution was to guaranty an existing State government, but he failed to inform us what was to be done in the case under consideration, where there was no civil government, and the people on account of public enemies were unable to form a government republican in form. I think, on reflection, that he will be bound to admit that if anarchy exists in any State of the Union from whatever cause, that the United States is bound to guaranty to the people order and civil government, and to protect them in re-organizing a republican form of government. The learned Senator found it also necessary to deny that loyalty was inherent in a State organization, and to deny that each State was to be

guaranteed not only a republican form of government, but a government loyal to the United States. Does he mean to be understood to contend that the United States should not interfere to prevent the organization of a State government hostile to the Union? This was the whole cause of the war. The rebels organized hostile governments and made war upon the United States. Will it be pretended by the Senator who voted for the prosecution of the war that the Government had no right to suppress these hostile organizations and overthrow them, and that it now has no right to prevent the creation of new organizations hostile to the United States? But in every argument made by the Opposition it has been contended that we had no power to enfranchise the negro; that he was not a voter before the war, and but few negroes were voters at the adoption of the Constitution. The answer is plain: he was not then a citizen. Show me a State at the adoption of the Constitution which had a majority, or even a respectable minority, of its citizens disfranchised, and I can see the force of the argument. But when by emancipation the negro became a citizen, if he had been left without political rights, it would have presented an anomaly unknown to the fathers of the Republic.

But it is held by some that "the authority extends no further than to a guaranty of a republican form of government which supposes a pre-existing government of the form which is to be guarantied." I regard this as a narrow view of the question, and do not concur; but, tried by this test, has Congress exceeded its powers in extending suffrage to the negro? Before the war every male citizen over twenty-one years of age, of sound mind, not guilty of crime, was allowed to vote in all the rebel States. Congress has not included any but citizens. It is true that there is a new class of citizens; but that did not result from the reconstruction acts of Congress, but from the war, the emancipation proclamation, and the constitutional amendment abolishing slavery.

That amendment, I believe, is now treated as a part of the Constitution, and we follow the Constitution. Only white men were citizens be-

fore the war in the rebel States, and consequently only white men voted. Now all men are citizens and all men vote. In each case all citizens over twenty-one vote, and the reason why more men vote under the rule allowing citizens to vote, is simply because there are more citizens; so that, so far as voting is concerned, it is based upon citizenship, the same as it was before the war. It cannot be said that we have changed the form of government, because more men have become citizens; for if such was the fact every addition to the number of citizens, from whatever cause, would change the form of a republican government. Do those who have argued that we must not change the form of government of South Carolina mean that we must guaranty them slavery and all their institutions as they existed before the war?

This cannot be done without a change of the Constitution of the United States. What, then, is to be done? Will it be said that because we cannot give them slavery we cannot guarantee to them republican government. But why not guarantee a government on a white basis to the exclusion of all colored citizens? That would be radically different from any government South Carolina ever had. She never had a government in which any large class of her citizens were disfranchised. It is difficult to define exactly what was meant by a republican government by the framers of the Constitution; but we have abundant evidence that they regarded it as an essential to such government that it should derive its powers from the great body of the citizens—that the exclusion from political rights of any considerable number of citizens would be anti-republican. The following passage from the *Federalist*, from the pen of Mr. Madison, indicates what was then understood as essential to a republican form of government.

"If we resort for a criterion to the different principles on which different forms of government are established, we may define a republic to be, or at least may bestow that name on, a government which derives all its powers directly or indirectly from the great body of the people, and is administered by persons holding their offices during pleasure, for a limited period, or during good behavior. It is essential to such a government that it be derived from the

great body of the society, not from an inconsiderable proportion of a favored class of it; otherwise a handful of tyrannical nobles, exercising their oppressions by a delegation of their powers, might aspire to the rank of republicans and claim for their government the honorable title of republic."

But the power to guaranty a republican government having been granted to the United States, and which power can only be exercised in pursuance of a law of Congress, Congress must determine in what case and in what manner the power is to be exercised. The same discretion in the use of means must be allowed as is constantly exercised in the execution of all the great powers conferred upon the United States.

To say it was unconstitutional not to execute the power because some other department thought it would have been wise to have executed it differently, or not to have executed it at all unless all the world were agreed as to the policy, would deprive Congress of passing any law to which any objection could be made on the ground of policy. When the power is given Congress alone must judge of the policy. But if it is contended that a majority of the citizens of any of the rebel States are barbarians and too ignorant to be intrusted with the ballot, a very unfortunate situation is presented. Congress must guaranty a republican form of government, and has no power to guaranty or permit any other to exist in a State; but it would be absurd to say a government of the minority was a republic within the meaning of the Constitution. It is the majority that must govern in a republic; but if that majority is uncivilized and incapable of governing it simply proves that the people are not prepared for self-government. In that case we have the territory and an uncivilized people, which we must govern ourselves until they are educated sufficiently to organize their own governments. It is our duty to guaranty republican governments in the South; but if those who formerly controlled the institutions of that region have so far neglected their duty as to allow a majority of the people to grow up as barbarians, it would be unwise for us, if we had the power, to allow a minority, who had so utterly failed in the discharge of their obligations to society as to

permit such a state of affairs to exist, to continue in exclusive control.

It is to be hoped, therefore, that the case is overstated by our opponents, and that it is not true that a majority of the people in any State are barbarians. My own opinion is that the colored man whom we are urged to treat as a beast (except when the rebels want him regarded as a man) is quite as likely to vote right as a traitor. If the majority, on the basis of manhood suffrage, are really barbarians, as the opposition contend is the case, it may be remembered by some Senators on this floor that the civilization of the present rebel minority who formed the majority on the old white basis was not always the most enlightened, refined, or humane. The arguments of the Opposition based upon the alleged uncivilized condition of the majority of the people of any State have no tendency to prove that we ought to tolerate rebel rule. They tend rather to establish the fact that the majority are unfit to govern. In that case it would be our duty to govern them by the military, and save republican institutions from the reproach of such mockery as that would be which would call the rule of a rebel minority a republican form of government.

But the Senator from Maryland [Mr. Johnson] contends that we have one constitution for ourselves and another for the rebel States. In this he has mistaken our intentions. We have always been anxious that they should share with us the blessings of the Constitution and of free government. But they would not. They sought to destroy the Constitution, but failed. Did we then punish them for treason? No. Did we deprive them of their lands, of their liberty, of the right of suffrage, of the protection of the law? No. We proposed a constitutional amendment for them and for us—an offer more generous and more magnanimous than was ever before extended to a fallen foe—but they rejected it. They refused to do justice and receive mercy. Justice and the safety of this Republic requires the passage of the reconstruction measures and their rigid enforcement. If there is any cause of complaint against these acts it cannot be said we did it. The responsibility must rest with those

who made every other course impossible. The responsibility must rest with the rebels who inaugurated the war—with the President and the Democratic party who advised them to refuse the congressional plan.

But the Senator from Indiana [Mr. Hendricks] contends that the people of a State cannot destroy their constitution, and appears to regard the constitution as the State organization. If he means by this that it is impossible for the people to collect all the existing copies of their constitution and burn them, he may or he may not be correct, depending very much upon circumstances. But if he means that they have no power to change their constitution, or substitute one constitution for another, he is not well informed of the history of the States. Some of them have done this half a dozen times, and I believe all the older States have done it as much as once. But if he means that no State has a legal right to withdraw from the Union, I fully concur. But it by no means follows from that admission that I am forced to the conclusion that the people of a State cannot overthrow a State government and create anarchy and confusion, or organize in the place of an existing State government a government hostile to the United States. For if I were to deny this the Senate would conclude that I was ignorant of the history of the late rebellion. But there is no necessity of refinement of reasoning when the facts are obvious and universally admitted.

The Senator from Indiana [Mr. Hendricks] admitted everything necessary for my purpose when he said that the practical relations of the States to the Federal Government were disturbed. By the practical relations, I suppose, may be understood the exercise of those functions which a State in this Union is permitted or required to perform under the Constitution—such as representation in Congress, the right to sue in the courts, the right to participate in the election of President and Vice President, etc. Now, if these States, from any cause, were placed in a condition where they could not perform these functions, it seems to follow that that condition must be changed before the practical relations can be restored. If the people of these States

were able and competent to change that condition so as to restore the practical relations, they are the proper parties to do it. But even then the Legislative department of the Government must determine when that change has taken place, and whether it is the act of the people before it can determine the identity of the State.

But suppose the State is filled with public enemies and persons who have usurped power and organized governments hostile to the United States, which are still hostile, making their hostility to the Government the passport to place and power. Suppose those public enemies have and exercise sufficient power—as in the case of the South—to prevent the formation of republican governments friendly to the Union and capable of exercising the functions of States in the Union. Is there no power in this Government to restrain these public enemies and suppress their power over loyal citizens, and give the loyal people an opportunity to reorganize their State governments? If there is no such power the practical relations can never be restored so long as rebels are rebels, for a hostile State, whether in arms or not against the Government, can have no practical relations to this Union.

But the Senator contends that Mr. Lincoln's plan was to amend the old constitutions and patch up the old State governments. That may be so. Many republicans may have indulged the idea that that was possible, but experience has shown that it was not; that the patching-up process was a failure. The President and the rebels made that plan impossible. And we were further educated by the course of events to understand that rebels could not be trusted with the destinies of those States or the control of the lives and property of loyal men. The Senator from Indiana, [Mr. Hendricks] however, regarded what was said by Mr. Lincoln and other Republicans in reference to the practicability of restoring these States by slight amendments to their State constitutions as the declaration of a principle which could not be changed, and a subject upon which the people could not be educated. In other words, we are to be bound to the repetition of experiments which have already failed; Congress is to be prohibited from devising new

measures for the restoration of the Union, and we are exultingly told—You have failed. We have tried a great many experiments with the rebels, which we do not propose to repeat. We do not propose to establish any more Missouri compromise lines, nor to allow slavery to be extended into the Territories, nor to allow it to exist in the States, nor allow rebels to set up State governments, nor allow them to deny civil rights to any citizen of the United States, nor allow them to commit any more New Orleans massacres, nor to make loyalty odious or treason honorable; and whenever we find that we have not adopted the right means to restrain their destructive propensities, we shall devise others. In the language of Mr. Lincoln, "we shall adopt new views whenever they appear to be true views."

We do not expect that our measures will be satisfactory to unrepentant rebels or their sympathizers. And we acknowledge no obligations to submit to them the question of the constitutionality of our legislation. But the Senator from Indiana [Mr. Hendricks] claimed the right for the Democratic party to speak for themselves, and denied the right of Republicans to attribute to them any purposes which they do not avow. The Senator when he made this demand had forgotten the golden rule; for he attributed to the Republican party purposes and designs which they deny, and but for his well known character for candor it would be difficult to suppose he himself believed them.

He said that our legislation was to secure partisan power and not the welfare of the country. This we deny. He maintained that our purpose was to establish in the rebel States negro supremacy, which we deny, but contend our only object is to secure republican governments, and protection for all men in life, liberty, and the pursuit of happiness. Is it possible that the Senator, after laboring two hours and a half to show that the Republican party was seeking to destroy the Government, establish a dictatorship, and perform a thousand atrocities equally repugnant to the Constitution and to the laws of justice and humanity, did really believe that he attributed to us no purposes or designs which we

ourselves do not profess? I attribute to the Democratic party many evil purposes which no Senator on this floor dare avow, and which that party, with all its audacity, dare not avow. Was it a plank in their platform that they would resist the draft, encourage desertion, recognize the independence of the southern confederacy, or deny the truth of reported Federal victories? Do they now openly proclaim that their purpose is to place these rebel States in disloyal hands, and admit Davis and Breckenridge to seats upon this floor? Yet who does not know that the programme which they advocate can have no other result, and I believe it has no other aim? Shall we not warn the country of the result of their policy, and say they are for rebel rule—rebel tyranny and peonage in the South—when they advocate the admission of organizations in these rebel States constructed of the charred timbers of the confederacy, which we thought had been consumed in the fires of the war?

But it is said that we should conciliate the South. This has been said from the beginning. On the 18th day of January, 1861, George H. Pendleton, whose nomination by the Democratic party for the Presidency seems probable, if indeed it is not already conceded, said:

"I beg you, gentlemen, who, with me, represent the northwest, you who with me represent the State of Ohio, you who with me represent the city of Cincinnati—I beg you, gentlemen, to hear that voice. If you will not, if you find conciliation impossible, if your differences are so great that you cannot or will not reconcile them, then, gentlemen, let the seceding sisters depart in peace; let them establish their government and empire, and work out their destiny according to the wisdom which God has given them."

In the same speech he further said:

"Mr. Chairman, I say again, that my constituents are in favor of conciliation; they are in favor of peace. They love the Union beyond all things; but if dissolution is inevitable, they want it in peace. Peace may preserve this Government; peace may reconstruct this Union; peace will preserve friendship, and give us an opportunity for acts of reciprocal kindness and good will. If these Southern States cannot be conciliated, and if you, gentlemen, cannot find it in your hearts to grant their demands, if they must leave the family mansion, I would signalize their departure by tokens of love; I would bid them farewell so tenderly that they would for-

ever be touched by the recollection of it; and if, in the vicissitudes of their separate existence, they should desire to come together with us again in one common government, there should be no pride to be humiliated, there should be no wound inflicted from my hand to be healed. They should come, and be welcome to the place they now occupy."

Again we are appealed to to conciliate the South. What further concessions are we called upon to make? Have we not tried conciliation from the foundation of the Government? Have we not sacrificed justice and humanity to appease the vile passions, prejudice and tyranny of slaveholders long enough? Are not our statute-books black with enactments to rivet the bonds of the slave? Are not the reports of the highest judicial tribunal disfigured with elaborate defences of the slaveholders' pretensions? Have we not submitted long enough to be slave-catchers for the South? Have we not bowed low enough in the dust in vain attempts to allay their royal displeasure? And after all this, were we not required to make a sacrifice of life and property unparalleled in modern history to restrain the wrath of these haughty rebels, engendered only by the election of Abraham Lincoln as President of the United States? When I reflect upon the crimes committed because of his first election, and when I reflect upon the manner of his death because of his second election, and the fearful results that have followed the commission of that crime, I sometimes feel that the power of conciliation was then exhausted.

But we did not stop at the death of Abraham Lincoln—we tried further measures of conciliation, and offered oblivion for the past and a full restoration to the Union on terms so liberal and magnanimous as to astonish the civilized world, and were again repulsed and defied. And still the Democratic party ask us to conciliate their rebel friends. They say it is impossible to harmonize the conflicting opinions in this country without conciliation. Let loyalty then be conciliated. Let something be done to soothe the bereaved and sorrow-stricken North. The passions of the human heart are not monopolized by those who sought to destroy the Government. Let the rebels make some atonement for the barbarities of Andersonville and Libby prison!

Let them, at least, give a pledge in the shape of a constitutional amendment that the widows and orphans of those who have fallen shall not be robbed of their pensions by repudiation of the Federal debt through the instrumentality of rebel votes! Let the world see by their conduct and bearing that they were not victorious in the war, and do not propose to humiliate our soldiers or make loyalty odious. Let the rebel press cease to discharge its venom in vile abuse of everything sacred to justice or honor. When force is agitated let the strong be conciliated. When the President betrays his party and, as he tells us, "deliberates much upon the very serious and important question" of resistance to the laws for the restoration of the Union, let the scarred veterans of Grant, Sherman and Sheridan be conciliated. Let those conservatives who cry "keep the peace," conciliate an insulted and outraged people. Those who suppressed the rebellion will secure the fruits of victory—peaceably if they can—forceably if they must. Let those who believe the people are actuated only by prejudice of race against race, reëcho the rebel war cry of "negro equality," "negro supremacy," and bend the pregnant hinges of the knee to haughty rebels for office and power; but let them take warning that they will fall where Buchanan fell, that they will not only merit but receive the contempt of mankind.

Disguise it as you will, there are but two sides to this question—the unrepentant rebel and the loyal. The former are resolved either to destroy this Government or make it subservient to their purposes; the latter to maintain the Union and the Constitution upon the broad principles of justice and humanity. Let the timid and time-serving politician and the selfish and sordid slave of Mammon, who have no principle, upon whom the appeals of justice and humanity are lost, consult their interest and aid the side they think is most likely to be successful at the end of the contest, although it be continued for ages. For if traitors can transmit to their posterity their hatred to the Government, coming generations will demonstrate that loyalty, too, may be hereditary. If they think the cause of rebellion is yet to be triumphant, and a loyal people are to be pun-

ished for their sacrifices to sustain this Government, let them count the cost of subjugating the victorious veterans whose honor is involved when loyalty is insulted in the person of the humblest Union man that loves his country.

Mr. President, I have no fears for the future.

I believe that there is more good than evil in man. I believe that a kind Providence is guarding the destinies of America; that the Republic is to live, not only in name, but in fact, the palladium of justice, humanity and universal liberty.

National Union Republican Platform.

THE following was adopted by the Chicago National Convention as the Platform of the National Union Republican Party :

Resolved, That we congratulate the country on the assured success of the reconstruction policy of Congress, as evidenced by the adoption in a majority of the States lately in rebellion of a Constitution securing equal civil and political rights to all, and regard it as the duty of the Government to sustain these Constitutions and prevent the people of such States from being re-mitted into a state of anarchy or military rule.

Resolved, That the guarantee by Congress of equal suffrage to all loyal men in the South, was demanded by every consideration of public safety, gratitude and justice, and must be maintained; while the question of suffrage in all the loyal States, properly belongs to the people of those States.

Resolved, That we denounce all forms of repudiation as a national crime, and that the national honor requires the payment of the public indebtedness in the utmost good faith to our creditors at home and abroad, not only according to the letter but the spirit of the laws under which it was contracted.

Resolved, That it is due to the labor of the nation that taxation should be equalized and reduced as rapidly as the national faith will permit.

Resolved, That the national debt, contracted as it has been for the preservation of the Union for all time to come, should be extended over a fair period, and the rate of interest thereon reduced whenever it can honestly be done.

Resolved, That the best policy to diminish our burden of debt is so to improve our credit that capitalists will seek to lend us money at lower rates of interest than we now pay, and must continue to pay so long as repudiation, partial or total, open or covert, is threatened or suspected.

Resolved, That the Government of the United States should be administered with the strictest economy, and corruptions which have been so shamefully nursed and fostered by Andrew Johnson, call loudly for a radical reform.

Resolved, That we profoundly deplore the untimely and tragic death of Abraham Lincoln, and regret the accession of Andrew Johnson to the Presidential chair, who has acted treacherously to the people who have elected him and to the cause he was pledged to support; has usurped high legislative and judicial functions; has refused to execute the laws; has used his high office to induce other officers to violate the laws; has employed his executive power to render insecure the lives, property, peace and liberty of citizens; has denounced the National Legislature as unconstitutional; has abused the pardoning power; has persistently and habitually resisted by every means in his power every proper attempt at reconstruction of the States lately in rebellion; has perverted the public patronage into an engine of wholesale corruption, and has been justly impeached for high crimes and misdemeanors, and pronounced guilty thereof by the votes of thirty-five Senators.

Resolved, That the doctrine of Great Britain and other European powers, that because a man is once a subject he is always so, must be resisted by the United States as a relic of feudal times, not authorized by the law of nations, and at war with our national honor and independence. Naturalized citizens are entitled to be protected in all their rights of citizenship as though they were native born; and no citizen of the United States, native or naturalized, must be liable to arrest or imprisonment by any foreign power for acts done or words spoken in this country; and if so arrested and imprisoned, it is the duty of the Government to interfere in his behalf.

Resolved, That of all who were faithful in the trials of the late war, there were none more fitted for especial honor than the brave soldiers and

seamen who endured the hardships of camp and cruise, and imperiled their lives in the service of the country. The bounties and pensions appropriated by law for these brave defenders of the Union are obligations never to be forgotten. The widows and orphans of the gallant dead are the wards of the people, a sacred legacy bequeathed to the protecting care of the United States.

Resolved, That foreign immigration, which, in the past, has added so much to the wealth and increased the resources of this nation—the asylum of all nations—should be fostered by a liberal and just policy.

Resolved, That this Convention declares its sympathy with all oppressed people who are struggling for their rights.

Resolved, That we highly commend the spirit

of magnanimity and forgiveness with which men who have served in the rebellion, and who are now frankly and honestly coöperating with us in restoring the cause of the country, and in the reconstruction of the Southern States on a basis of impartial justice and equal rights, are received back into communion with loyal people, and that we are in favor of the removal of the disqualifications and restrictions imposed upon the late rebels in the same measure as their spirit of loyalty, and as may be consistent with the safety of the loyal people.

Resolved, That we recognize the great principles laid down in the Declaration of Independence as the true foundation of a democratic government, and we hail with gladness every effort toward making these principles a living reality on every inch of American soil.

National Union Republican Convention.

A STATE CONVENTION OF THE NATIONAL UNION REPUBLICAN PARTY will be held at Sacramento on the FIFTH DAY OF AUGUST, A.D. 1868, for the purpose of Nominating an Electoral Ticket, to be supported at the coming Presidential Election, and for the transaction of such other business as shall properly come before said Convention.

Delegates are apportioned to the several Counties as follows :

Alameda.....	8	Kern.....	2	Placer.....	11	Stanislaus.....	2
Alpine.....	2	Klamath.....	2	Plumas.....	5	Sutter.....	4
Amador.....	6	Lake.....	2	Sacramento.....	14	Sierra.....	8
Butte.....	6	Lassen.....	2	San Francisco.....	40	Siskiyou.....	5
Calaveras.....	8	Los Angeles.....	4	Santa Cruz.....	5	Solano.....	7
Colusa.....	2	Marin.....	3	Shasta.....	4	Sonoma.....	9
Contra Costa.....	5	Mariposa.....	4	San Bernardino.....	2	Tehama.....	3
Del Norte.....	2	Mendocino.....	4	San Diego.....	2	Trinity.....	4
El Dorado.....	9	Merced.....	2	San Joaquin.....	11	Tuolumne.....	7
Fresno.....	2	Mono.....	2	San Louis Obispo.....	2	Tulare.....	2
Humboldt.....	4	Monterey.....	3	San Mateo.....	4	Yolo.....	5
Inyo.....	2	Napa.....	4	Santa Barbara.....	2	Yuba.....	7
		Nevada.....	14	Santa Clara.....	11		

Elections for Delegates are directed to be held under the provisions of the Primary Election Law.

All legal voters who will pledge themselves to support and vote for the Electors chosen by said Convention, shall be entitled to vote at said Primaries.

It is recommended that a GRANT and COLFAX Club be formed on the day of said Primary Election, in every Precinct in the State where a Union Republican Club does not already exist.

Officers of Clubs so formed will report immediately to the Secretary of the State Central Committee.

JAMES OTIS,
Chairman State Central Committee
National Union Republican Party.

ALFRED BARSTOW, Secretary.

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