 Negro Suffrage
 and
 Congressional Representation

 BY

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 Submitted in Partial Fulfillment of the Requirements for the Degree of Doctor of Philosophy, New York University, 1909

 1910
 THE WINTHROP PRESS
 NEW YORK
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Chapter I.
WAR AND EMANCIPATION.

When General Robert E. Lee, at Appomattox Court House, surrendered to General Ulysses S. Grant the shattered remnant of the Army of Northern Virginia, there was ended one of the greatest war dramas of history. The armies of the Union had overrun the seceding States, and the North with its command of varied and expanding resources, had vanquished and completely exhausted the feudalistic South.

By the Emancipation Proclamation the shackles of slavery were, theoretically, loosed from the millions of unfortunate blacks; by the adoption of the Thirteenth Amendment, legalized slavery was actually destroyed forever.

The horrible tales of the malodorous slavers; the harsh decrees of the auction block; the stinging crack of the overseer's lash; the sufferings typified by an "Uncle Tom"; the awful anguish of a race in bondage; all these were consigned, by the arbitrament of the pen and the sword, to the darkest and most shameful pages of our national history.

The stability of the Union had been proven; its indestructible character had been established. It had passed through the mighty throes of civil war; it had produced a new standard of heroism and military skill, and awakened a new sense of moral judgment. A remarkable episode had been added to human history. The Grand Army of the Republic was melting away, as the myriad of boys in blue went marching triumphantly home. The war was at an end.

Gigantic as had been the issues of the war, as peace settled once more over the land, there came upon us pressing and perplexing problems of far-reaching import—problems, civil and political, that agitated the public mind, and that stirred up sectional hatreds and race prejudices so bitter, that it required a foreign war to reunite the people, and braze together all sections of our country into one great national whole, knowing neither North, nor South, East nor West.

Chapter II.
RESTORATION.

It is a notable fact that the several sections of our country have, under political stress, looked to secession as a panacea for the ills from which they have temporarily suffered. The South-
ern people, at the time of the Hartford Convention, as vigorously opposed the theory of secession, as did the North prior to and during the Civil War. In a sense, they were at that early day the preservers of the Union. Andrew Jackson dealt as severely and summarily with nullification and secession as did Lincoln; and it may be said, that the spirit of nationality received its formulative impetus under his administration, and largely from his dominating personality.

Once a State always a State. To Lincoln's mind secession could never be a fact, and as the war came to a close, he viewed the Southerners as sufficiently chastized, and clearly entitled to resume their places in the council halls of the nation. It was with this mind that Lincoln contemplated a restored South and a reunited people.

In the minds of a large number of Northern people, however, there lingered a vindictive spirit, begotten of slavery and the war, and, with the leaders of the dominant political party led by Thaddeus Stevens, there was a determination to keep themselves entrenched in power, and to inflict a humiliating penalty upon those who had rebelled. This policy, they clearly foresaw, could not be carried out if the Southern States were restored at once to full power.

With Lincoln at the helm, the South had everything to hope for. His commanding position, powerful personality, and keen sense of justice, would insure for the South fair and kindly treatment at least. But Lincoln was not to guide the destinies of the nation through this critical period. The hand of the assassin dazed and inflamed the North, and robbed the Southern people of a true friend. Power fell into the hands of a weak administrative successor, and into the keeping of a party dominated by hostile and less scrupulous leaders.

Johnson thoroughly agreed with the restoration policy of Lincoln, and made heroic effort to carry it out. He said that "the States attempting to secede placed themselves in a condition where their vitality was impaired, but not extinguished; their functions suspended but not destroyed." While he had the good intentions, he was lacking in the fine tact and the quality of compelling leadership necessary to force recalcitrants to his way of thinking. He was brave and daring, but he knew only how to meet opposition by a frontal attack, and would not avail himself of the subtle influence of political strategy.

Johnson's quarrel with Congress aroused bitter antagonism and antipathy which resulted in the utter defeat of the original plan of restoration. Restoration would not do: reconstruction was demanded.

1 December 25, 1814.
2 President Lincoln's proclamation of December 8, 1863.
3 President Johnson's speech of February 22, 1866.
CHAPTER III.

RECONSTRUCTION.

A sentimentalist might naturally suppose that the abolition of slavery had removed the great obstacle to national peace; but this remarkable change in the condition of the people had produced one of the most notable revolutions in history.

In the South, there was one negro of voting age to every two whites; in the North, there were eighty-four whites to every negro. In South Carolina and Mississippi, the negro males outnumbered the whites; in Louisiana, the races were equal in number; and in Georgia, Alabama and Florida, there was little difference in their proportions.¹

North and South had long been hostile to negro suffrage. Many of the Southern States ratified the Thirteenth Amendment, with the belief that it would not be construed as empowering Congress to grant suffrage to the negro. The people of all sections recognized the right of each State to prescribe the qualifications of its electors.

When the Southern people abolished slavery and granted the negro civil rights they did so out of compulsion, and had not changed their view of the negro. They would not tolerate co-education of blacks and whites, and were too poor at that time to establish separate schools for the negroes. The prevailing sentiment was, "The North had freed the negro; let it educate him." The war had completely impoverished the South; but this condition of affairs was not so disturbing as the prospect of negro suffrage.²

Prior to the Civil War, the Southern people had a sort of patriarchal feeling for the negro; but immediately upon emancipation, there arose that bitter racial feeling which exists to-day. It was claimed that ex-slaves were not given equal protection under the laws.

A constitutional question at once arose. Could the United States Government apply a remedy, or was it a matter entirely within the jurisdiction of the several States? It is not at all surprising that the Southern States maintained that it was a matter concerning each individual State; while the Civil War had produced in the minds of a large majority of Northern men, a marked tendency toward ultra-centralization of authority in the national government. The successful North was inclined to settle the question in its own way and to its own liking.

President Johnson, in his first annual message to Congress³

stated that he had "gradually and quickly, and by almost imperceptible steps, sought to restore the rightful energy to the government and the States." With his conception of Lincoln’s policy, he was endeavoring in every possible way to restore the Southern States to their full powers as members of the Union. He advised the Southern people to ratify the Thirteenth Amendment to the Constitution, thereby proclaiming their acceptance of the result of the war. When a State had done this, he was fully convinced that it should be immediately restored to full power.

Of course, in the South, the negro has always been considered as of an inferior race; but in all the Northern States, there had long been laws discriminating against the free negro.1 "In 1866 there was not a State in the Union in which a negro stood on a perfect equality with the white man."2

Congress felt that the ex-slaves were the "wards of the nation," and that their welfare was entirely in the hands of the national legislature. The Civil Rights Bill, which had for its object the defining of the status of the negro and the removal of all legal discriminations, was quickly passed by Congress.3 President Johnson vigorously opposed and vetoed4 the bill on the ground that:

1. It was too sweeping in its provisions.
2. It was unfair to pass a bill so directly concerning the South, when eleven Southern States were not allowed representation in Congress.
3. It made citizens immediately of former slaves, while aliens were compelled to reside in the country for a fixed period, and, furthermore, pass an examination to qualify.
4. It strove to establish racial equality by Federal law—while the question of who shall be citizens has always been considered as coming distinctly within the jurisdiction of the States.

By enormous majorities Congress passed the bill over the President’s veto.5

But the Northern people were bound to have written down in the Constitution the results of the war. And so, a very large number of amendments to the Constitution were introduced in Congress, involving the issues of reconstruction, which were both multiplex and complex. Generally these amendments had in mind the following objects:

1. Repudiation of the Confederate debt.
2. A change in the basis of representation.
3. The enfranchisement of the negroes.
4. Ineligibility of ex-Confederates to hold office.

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1 Thorpe’s Constitutional History of the American People, Vol. I, Chap. XII.
3 March 13, 1866.
4 March 27, 1866.
5 April 9, 1866.
A Joint Committee of Reconstruction was formed in accordance with a resolution passed by Congress December 13, 1865. This committee consisted of the following:

(1) From the House of Representatives—
Thaddeus Stevens, Pennsylvania.
Elihu B. Washburne, Illinois.
Justin S. Morrill, Vermont.
Henry Grider, Kentucky.
John A. Bingham, Ohio.
Roscoe Conkling, New York.
George S. Boutwell, Massachusetts.
Henry T. Blow, Missouri.
Andrew Rogers, New Jersey.

(2) From the Senate—
William P. Fessenden, Maine.
James W. Grimes, Iowa.
Ira Harris, New York.
Jacob M. Howard, Michigan.
Reverdy Johnson, Maryland.
George H. Williams, Oregon.

After a thorough study of the entire situation and the various amendments proposed, their conclusions were submitted to Congress in the shape of the Fourteenth Amendment.

Thaddeus Stevens was the leader and controlling spirit throughout the stirring debates in Congress. He was an ultra-radical, vindictive in his attitude toward the South, and determined to place the negro on an equal footing with the white man in every particular, before readmitting the States that had seceded. President Johnson would not co-operate in this plan because he preferred restoration to reconstruction.

On June 13, 1866, the House of Representatives concurred in the Senate resolution, and the Fourteenth Amendment was proposed. By a concurrent resolution, the two houses instructed the Secretary of State to transmit certified copies to the Governors of the States, to be laid by them before the legislatures for ratification.

This amendment, unlike the Thirteenth, was not submitted to the President for approval. This greatly irritated him, and called forth a special message to Congress. The message declared that ordinarily a question of amending the Constitution was of the utmost importance, and was “enhanced at the present time by the fact that the joint resolution was not submitted by the two houses for the approval of the President.” Furthermore, “of the thirty-six States constituting the Union, eleven

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1 Congressional Globe, First Session, Thirty-ninth Congress, 1865-1866, pp. 24-57; Senate Journal p. 59.
2 Congressional Globe, June 13, 1866, pp. 3148-3149.
3 June 22, 1866.
were excluded from representation in Congress, when, with the exception of Texas, they had been entirely restored (by him, Johnson) to their functions as States,”¹ and had appeared at Washington by their Congressmen.

Stevens and his followers were not inclined to consider the question from a purely academic standpoint, as to whether or not a State could secede; but bluntly declared that the Southern States actually had seceded and formed a government of their own, and now Congress must treat them as conquered territory, and prescribe conditions for their re-admission into the Union.

The Fourteenth Amendment as proposed and finally ratified reads as follows:

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty or property, without due process of law, nor deny to any person within its jurisdiction, the equal protection of the laws.

Sec. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But, when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Sec. 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States or under any State who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each house, remove such disability.

Sec. 4. The validity of the public debt of the United States,

authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

Sec. 5 The Congress shall have power to enforce, by appropriate legislation the provisions of this article.

The first section met with little opposition, because universally acknowledged in the Northern States. After the Civil War, it was incorporated in the statutes of the Southern States under protest, because they claimed it violated the right of the State to regulate its domestic affairs.

The second section could affect the North but little, as there were only 90,000 male negroes of voting age from Maine to California, not numerous enough to affect any election. The free negro was an unwelcome visitor in every Northern State except New Hampshire, Vermont, Massachusetts, New York and Nebraska. In Oregon, by the constitution free negroes or mulattoes not then resident in the State were forbidden to "come reside, or be within this State, or hold any real estate, or make any contract, or maintain any suit therein."

The South objected to this section because it interfered with the State's right of regulating its suffrage, and decreased the State's representation, if suffrage was not granted to the negro.

The Third Section, disqualifying the old Southern soldiers from holding office, met with bitter opposition in the South, while the North considered it as just punishment for rebellion.

The Fourth Section was supported unanimously in the North, while the Southerners looked upon it as unnecessary, as the Federal debt had been secured by the successful termination of the war; and the great bulk of the Confederate debt was not collectible because it was "payable at a fixed period of time after a treaty of peace between the United States and the Confederate States of America."

The Fifth Section was looked upon with alarm by the South, on the ground that it permitted unlimited Congressional interference.

In its entirety, the South opposed the Fourteenth Amendment, because:

(1) The Southern States were not allowed representation at the time it was voted upon.

(2) It was a scheme on the part of the Republican party to maintain its grip on the national government.

1 Constitutional History of the United States, by F. N. Thorpe, III, 298.
2 Article I, Section 35.
The Congress (1865-1866) which drew up the amendment was a war congress, filled with bitter hatred and passion, and not susceptible of formulating statesmanlike measures.

Meanwhile, the President and the Southern people had supposed that permanent State governments had been established in the South; but Congress absolutely refused to seat any Southern Senators or Representatives.

According to President Johnson, the Southern States had acknowledged emancipation by State Constitutional Amendments and therefore they were to be re-admitted at once. The majority of the Republican leaders maintained that every State that had seceded must ratify the Fourteenth Amendment as a condition precedent to re-admission. Mr. Stevens and his coterie of extremists wanted the conquered South placed under military law, and the ex-Confederates altogether ignored.

As was quite natural, on account of the part he had played as war governor of the State of Tennessee, Johnson succeeded to the Presidency with a feeling of extreme bitterness and hatred toward the men who had been the leaders of the Confederacy. But we soon find a reversal of his opinions. He became the ardent advocate and champion of the South, and urged restoration in accordance with Lincoln's ideas.

In the election of 1866, the great question was whether the President or Congress should prevail. The North endorsed Congress, while the South, with the exception of Tennessee, stood by Johnson. Tennessee at once ratified the Fourteenth Amendment, and was immediately re-admitted.

Throughout the war, the prevailing sentiment of the North was that:

(1) The Southern States were never out of the Union and could not be, and that ordinances of secession were null and void.

(2) Civil war was waged to preserve the Union, and not to destroy the right of the seceding States as States of the American Union.

During this same period the Southerners claimed that:

(1) Each State had the constitutional right to secede.

(2) The Ordinances of Secession were valid, and that seceding States were out of the Union.

After the war, the Southerners maintained that the Northern view prevailed as the Union arms had won, and that, consequently, Congress could not constitutionally propose the Fourteenth Amendment, when the Southern States were denied representation. Theoretically, at least, the Southerners were right in their contention, but they did not recognize the fact that all power rested with the North, and, as a conquered people, they
must, perforce, accept the terms of the conqueror, whether they be considered exacting or magnanimous.

The Southern leaders did not like the idea of having their representation in Congress materially reduced, as they fully believed it would be, by their failure to enfranchise the negro. Further, the disqualification of the old Confederate soldiers from holding office, and the repudiation of the Southern debt, caused the most bitter opposition to the ratification of the Fourteenth Amendment.

At this time, the governments of the eleven ex-Confederate States were entirely in the hands of the whites. Representation in Congress was not, as yet, allowed them, nevertheless they controlled all local administration.

When the Southern States rejected the Fourteenth Amendment, the North was greatly aroused, and the Blaine or conservative element of the Republican party could no longer restrain the radical wing under the leadership of Thaddeus Stevens. These radicals now demanded that negro suffrage be imposed upon the South. It was asserted that:

(1) The ex-Confederates had proved their disloyalty by secession, and consequently governmental affairs could not safely be entrusted to them.

(2) The negroes had been loyal, and with the white loyalists in the South, were the only persons to be entrusted with the control of the government.

Mr. Stevens said: "I am for negro suffrage in every Southern State. If it be just, it should not be denied; if it be necessary, it should be adopted; if it be a punishment to traitors, they deserve it."

Accordingly, the first of the so-called Reconstruction Acts\(^2\) was pushed through Congress, whereby the seceding States, excepting Tennessee, were divided into five military districts, each presided over by a Federal officer not under the rank of a Brigadier-General. It was also provided that, upon the selection of delegates to a State Convention by an election at which negroes should be allowed to vote, and by the adoption of a State Constitution which should allow negroes to vote, and the establishment of a State government which should meet the approval of Congress, representation in Congress would be restored.

The Southern States had been conducting their own State governments from 1865 to 1867, when, suddenly, by operation of the Reconstruction Acts, these were swept aside to make way for a military despotism, such as had never been practiced in the most absolute monarchies. Backed by Federal troops, constitutional conventions were held in the several States, and these con-

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1 Congressional Globe. Fifty-first Congress; Second Session; Part IV; Appendix, p. 66.
2 March 2, 1867.
stitutions were adopted with negro votes, while the whites, who had taken part in the rebellion, were excluded. Under this military control, it was an easy step to secure the ratification of the Fourteenth Amendment.

In the national election of 1868 the Republican party had for the second "plank" of its platform the following: "The guarantee by Congress of equal suffrage to all loyal men at the South was demanded by every consideration of public safety, of gratitude and of justice, and must be maintained; while the question of suffrage in all the loyal States properly belongs to the people of these States." The patriotism of this sentiment was very much like that of Artemus Ward who, with fervid eloquence, urged his wife's relatives to go to the war.

To saddle negro suffrage upon the South forever, the Fifteenth Amendment was passed in 1870. The Southerners did not at first believe that Congress would be able to force negro suffrage upon the whole country as practically all of the Northern States at this time restricted the suffrage to whites. By the Fifteenth Amendment the States were deprived of one of their most important powers, and of one of the highest attributes of sovereignty. The national government was now supreme.

It should be noted here that, had the Southern States ratified the Fourteenth Amendment at first, the adoption of the Fifteenth Amendment would have been constitutionally impossible, because the Southern States, having been duly readmitted, after having ratified the Fourteenth Amendment, would have been able to prevent the ratification of the Fifteenth Amendment.

Mr. Blaine declared that when the South rejected the Fourteenth Amendment, it forced the Republican party to provide negro suffrage. He said that Congress had three alternatives:

(1) President Johnson's plan which contained no conditions whatever.

(2) Thaddeus Stevens' plan which was an indefinite military government with martial law.

(3) Negro suffrage in the South as a basis of reconstruction, and the necessary prerequisite of securing the ratification of the Fourteenth Amendment.

In the light of our knowledge of reconstruction days, the people of the North may well to-day reflect, whether negro rule was justly forced upon the Southern States. Was it necessary for the negro, that he should have been placed politically above the white man, and given entire control over the governmental machinery of the South? Did we exhibit a spirit with even a semblance of magnanimity, when we imposed upon the conquered South negro and "carpet-bag" domination? Could we expect

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1 See Chapter VI.

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that the white men of the South, Anglo-Saxon like ourselves, and moved by the same traditions of freedom, would long remain quiescent under a condition of affairs so burdensome and reactionary?

CHAPTER IV.

SUFFRAGE.

During the days of the American and French Revolutions, when ultra-republicanism was rampant, there existed a theory that suffrage was the natural right of all persons; but such a theory finds no place in our modern conception of a State. Suffrage, as we look at it, is a civil and political privilege; not a natural and personal right. In fact, suffrage is a political privilege granted and regulated by each government, in accordance with its own notions of public policy and political expediency, and "it is evident that in the present condition of mankind, in which, for the public good, the principle of exclusion must be exercised, there is no such thing as right of suffrage. Suffrage is not a right at all; it is a duty, a trust, enjoined upon, or committed to, some citizens and not to others." Its exercise means participation in the government, i.e., the right to vote for officers and for the adoption or rejection of a country's constitution.

In the United States, suffrage is looked upon as a privilege granted by the State, to certain individuals considered fit to use it for the benefit of the State. The State is above the individual, as the nation is above the State.

In the Constitutional Convention of 1787, the suffrage question was one that engrossed a great deal of attention. The political theorists of that time, contended for national control of the suffrage; the more practical statesmen, like Benjamin Franklin, believed that it was a matter which should rest entirely with the States, and their ideas were adopted in Clause 1, Section 2, of Article I of the Constitution.

The privilege of voting is not conferred or guaranteed by the United States Constitution; but is left to be fixed and regulated by the several States, subject, however, to the limitations contained in the Fourteenth and Fifteenth Amendments. The State may give it or withhold it when it chooses. It cannot in terms deny it on account of race, color, or previous condition of servitude.

Mere citizenship does not confer the right to vote. Nowhere

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2 Constitutional Conventions, by John A. Jameson, p. 329 et seq.
4 Amendment XV.
5 People v. De La Guerra, 40 California 311; Spencer v. Board 1, McArthur 169.
does the Federal Constitution determine who shall vote. One may be a citizen, yet not a voter or one capable of becoming a voter, as women, children and Indians. The United States Constitution does not confer the right of suffrage upon any one. The nation cannot say who shall vote for State officers; because the national government is limited to express or implied grants by the Constitution.

Naturalization, under the laws of the United States, makes a person not only a citizen of the United States, but also of the State wherein he resides. However, this does not confer on him the right of suffrage. “Each State has the undoubted right to prescribe the qualifications of its own voters. And it is equally clear that the act of naturalization does not confer on the individual naturalized the right to exercise the elective franchise.”

So long as suffrage qualifications are left to the several States, we find many and marked differences. In no two States are the qualifications exactly alike. In twelve States citizenship is not even required, and the time requirements vary greatly.

There are two extremes of requirements:

(1) Non-citizenship and short residence, with no educational or property qualification.

(2) Citizenship and longer residence, with educational and property qualification.

Some States deliberately offer to foreign immigrants the easiest possible requirements for the electoral privilege, as an inducement to settle within their boundaries.

It is right and proper that a standard of mental and moral fitness should be required for admission to the elective franchise; and it should not be indiscriminately granted to men simply because they have reached their majority.

Chapter V.

THE NEGRO.

In 1890, the total negro population of the United States was 7,488,788, while according to the 1900 Census, it had increased to 8,840,789. In the meantime the white population had increased from 55,166,184 in 1890, to 66,990,802 in 1900. Thus it will be seen that the relative increase in blacks was 18.1 per cent., while the relative increase of whites was 21.4 per cent.; but, while the actual increase of negroes was less than 1,400,000,

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1 In re Green, 134 U. S. 377.
2 Minor v. Happersett, 21 Wall. 162.
3 Amendment X.
the actual increase of whites was nearly 12,000,000, or 150 per cent. of the total negro population of the United States. Judging from these figures it would seem that the negro problem will grow less important year by year, owing to the greater numerical increase of the whites over the blacks. It is necessary, however, to bear in mind the fact that our white population is yearly augmented by about a million immigrants.

There is a growing tendency in European countries to improve the conditions of their poorer classes, and give them a more satisfactory participation in governmental affairs. As the economic and political conditions of these people improve, there will be less inclination on their part to migrate to the United States. With any great decrease in our immigration, the decennial increase in the colored population would show a larger proportionate percentage, and the negro problem would assume an alarming aspect.

Another notable fact brought out by the 1900 Census Report was that the largest relative, though not numerical increase, occurred in the North Atlantic States. The relative increase of the white population in these States was 20.5 per cent., while the relative increase of blacks was 42.6 per cent. New Jersey had relatively the greatest increase in negro population, viz.: 46.6 per cent. Following New Jersey came Pennsylvania, with 45.8 per cent.; Massachusetts, with 44.4 per cent.; New York, with 41.6 per cent. It is in the large cities of these States where the greatest numerical increase is noted.

The increase of negro population in the distinctly Southern States, i.e., those South of the Mason and Dixon line, seems to show that the white population is there increasing so much more rapidly than the blacks, that this condition alone may prove an important factor in the solution of the race problem. Since 1880, the increase in white population in Maryland is 227,731; in negro population 24,834; in Virginia, the white increase is 311,997, the negro, 29,106; in North Carolina, the white is 396,361, the negro, 93,192; in Tennessee, the white is 401,455, the negro, 77,092; in Missouri, the white is 922,017, the negro, 15,884; in Kentucky, the white, 485,130, negro, 13,255.

As a matter of fact, there are only two States in the Union where the negroes outnumber the whites, viz.: South Carolina, where there are 140,249 negroes to every 100,000 whites; and in Mississippi, where there are 141,552 negroes to every 100,000 whites. For every 100,000 whites there are in Georgia 87,600 negroes; in Alabama, 82,636 negroes; in Louisiana, 89,199 negroes; and in Florida, 77,600 negroes.

1 XIIth Census.
3 Negroes in the United States; Bulletin 8 of 1900 Census, p. 104.
4 Id, p. 102.
The 1900 Census Report informs us that the proportionate illiteracy of the various races in our country is as follows:

1. 5.8 per cent native white population of voting age.
2. 11.15 per cent. native white of foreign parentage of voting age.
3. 31.3 per cent. Chinese of voting age.
4. 33.9 per cent. Japanese of voting age.
5. 65.1 per cent. Indians of voting age.
6. 47.3 per cent. negroes of voting age.

With the single exception of Indians not taxed, by far the greatest degree of illiteracy exists among the negroes.

The per cent. of illiterate negro males to the total male negroes of voting age varies in the Southern States as the following table will show:

<table>
<thead>
<tr>
<th>State</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Louisiana</td>
<td>61.3</td>
</tr>
<tr>
<td>Alabama</td>
<td>59.5</td>
</tr>
<tr>
<td>Georgia</td>
<td>56.4</td>
</tr>
<tr>
<td>South Carolina</td>
<td>54.7</td>
</tr>
<tr>
<td>Mississippi</td>
<td>53.2</td>
</tr>
<tr>
<td>North Carolina</td>
<td>53.1</td>
</tr>
<tr>
<td>Virginia</td>
<td>52.9</td>
</tr>
<tr>
<td>Kentucky</td>
<td>49.5</td>
</tr>
<tr>
<td>Tennessee</td>
<td>47.6</td>
</tr>
<tr>
<td>Texas</td>
<td>45.1</td>
</tr>
<tr>
<td>Arkansas</td>
<td>44.8</td>
</tr>
<tr>
<td>Delaware</td>
<td>42.7</td>
</tr>
<tr>
<td>Maryland</td>
<td>40.5</td>
</tr>
<tr>
<td>Florida</td>
<td>39.4</td>
</tr>
<tr>
<td>West Virginia</td>
<td>37.8</td>
</tr>
<tr>
<td>Missouri</td>
<td>31.9</td>
</tr>
</tbody>
</table>

Another noteworthy fact indicated by the census figures is that where the negroes continue to live and work together, the degree of illiteracy remains very high; but when they are placed in employments where they are segregated and see very little of one another, it sensibly diminishes.

Only 51.46 per cent. of colored children of school age really attend school. The expenditures in the Southern States for the education of negroes is approximately one dollar to every four for the whites.

Chapter VI.

NEGRO SUFFRAGE.

In the colonial days, there was “no law that would prevent an Indian or a negro, if otherwise qualified, from voting in the Northern Colonies.” Such laws were “of a comparatively late date” in the South.

North Carolina passed a law declaring that “no negro, mulatto, or Indians shall be capable of voting for members of the Assembly.” According to the law of 1760, there was nothing to prevent the free negro from voting.

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1 Census Report, 1900.
2 History of Elections in the American Colonies, by Cortlandt F. Bishop.
"The Constitution of 1776 had made provisions by which it was not possible to keep any free negro who could comply with the necessary conditions from voting for assemblymen as freely as whites. What had been the intentions of the builders of the Constitution was never satisfactorily known * * * At all events they were allowed to vote. In some counties there were considerable numbers of them." During the Constitutional Convention of 1835 the question of negro suffrage produced a long and bitter struggle and by the very close vote of 65 to 62 the negro was disfranchised.2

In 1716, South Carolina allowed only the white people to vote;3 by the law of 1759, only whites were permitted to hold office; and the revolutionary constitution confirmed these restrictions. In 1705, Virginia took away the right of holding office from negroes, mulattoes and Indians, and they were disfranchised in 1723.4 This law was later repealed by the crown, but subsequently re-enacted in 1762.5 In 1761, Georgia disfranchised the negro,6 and kept him so by its revolutionary constitution.

As has already been shown, suffrage has always been regarded as a special privilege granted by the States. In the slave-holding States, all white men were not permitted to vote. For example, in Virginia by the law of 1655, none but "freeholders and housekeepers" held suffrage.7 The land-holding aristocracy, thus created, continued in power until the Constitutional Convention of 1830 extended the suffrage, with a property or tax qualification, to "white male citizens of the Commonwealth."8 By the new Constitution of 1850, complete white manhood suffrage was established.

In the North prior to the Civil War, very few States permitted the negro to vote. Amendments giving suffrage to the negro were many times proposed in New York, and as frequently defeated, in 1846 by a vote of 223,834 to 85,306; in 1860 by a vote of 337,984 to 197,503, in 1868 by a vote of 282,403 to 249,802.9

In 1845 Connecticut adopted an amendment to her State Constitution which read: "Every white male citizen of the United States....shall......be an elector";10 in 1865 she gave a majority11 of 6,272 against negro suffrage; and although the Fif-
teenth Amendment in 1870 abolished slavery throughout the
country, it was not until 1876 that she amended her constitution
to read: "That Article VIII of the Amendments to the Constitu-
tion be amended by erasing the word 'white' from the first
line." 71

Ohio, 2 in 1867 defeated negro suffrage by 50,629 and in 1868
passed a law 3 containing severe provisions against negroes voting.

According to the Constitution of the State of New Jersey of
1847 only whites were allowed to vote 4 and serve in the militia.
The Minnesota Constitution of 1857 limited voting to whites 5
and in 1867 defeated a negro suffrage proposition by a majority of
1315. 6 In the Kansas Constitution of 1859 7 the suffrage was
for whites alone and in 1867 a negro suffrage amendment was
defeated by a majority of 9,071. 8 Negroes and mulattoes were
not allowed to vote in Pennsylvania until the passage of the
Fifteenth Amendment nor to serve in the State militia until
1872. 9

By the Indiana Constitution of 1816 only whites could vote
and serve in the militia. 10 The Constitution of 1851 contained
a similar provision; and further prohibited negroes from mov-
ing to and settling in the State and imposed a fine of from $50
to $500 on any one encouraging them to come. 11 The Illinois
Constitution of 1847 permitted whites only to vote or serve in
the militia. 12 The Legislature was also instructed to pass laws
to prevent free negroes coming into the State. 13 In 1862 a new
constitution permitting negro suffrage was defeated by a vote of
171,896 to 71,306. 14 The Iowa Constitution of 1846 allowed only
whites to serve in militia 15 or to vote. 16

The Michigan Constitution of 1835 permitted only whites to vote. 17
The Constitution of 1850 contained a similar provision 18
and restricted militia 19 service to whites. In 1868 a new Con-

1 Amendment XXIII.
2 Appleton's Annual Cyclopaedia, 1867, p. 605.
4 Article II.
5 Congressional Globe. Fifty-first Congress, Second Session. Part IV; Appendix, p. 52.
6 Appleton's Annual Cyclopaedia, 1867, p. 513.
7 Congressional Globe. Fifty-first Congress, Second Session. Part IV; Appendix, p. 53.
8 Appleton's Annual Cyclopaedia, 1867, p. 420.
9 Congressional Globe. Fifty-first Congress, Second Session. Part IV; Appendix, p. 49.
11 Article XIII.
13 Article XIV.
14 Appleton's Annual Cyclopaedia, 1862, p. 519.
15 Article VI.
16 Article II, Section 1.
18 Article VII.
19 Article XVII.

23
tution, omitting the word "white," was defeated, by a majority of 38,849.\(^1\) The Oregon Constitution of 1857 provides for "white" suffrage\(^2\) and further declares: "No negro, Chinaman, or mulatto shall have the right of suffrage."\(^3\) The Nevada Constitution of 1864, the Nebraska Constitution of 1867 and the Wisconsin Constitution before the Civil War, restricted suffrage to whites.\(^4\)

On December 21, 1865, a vote was taken in the District of Columbia "to ascertain the opinion of the people of Washington on the question of negro suffrage." The result was:

- Against negro suffrage ............ 6,591
- For negro suffrage ............... 35

\(^5\) Majority against ............... 6,556

Negro suffrage was no part of Lincoln's plan. His attitude on this subject was clearly and definitely stated in a speech delivered at Charlestown, Ill., September 18, 1858, when he said: "I will say that I am not, and never have been, in favor of bringing about in any way the social and political equality of the white and black races—that I am not, nor ever have been, in favor of making voters or jurors of negroes, nor of qualifying them to hold office nor to intermarry with white people; and I will say in addition to this, that there is a physical difference between the white and the black races, which I believe will forever forbid the two races living together on terms of social and political equality. And inasmuch as they cannot so live, while they remain together there must be the position of superior and inferior, and I, as much as any other man, am in favor of having the superior position assigned to the white race.\(^6\)

He believed that the relations between the Southern States and the Union had been suspended by the Civil War, and his purpose was to restore them as quickly as possible. He also concurred in the general belief of that time, that the question of suffrage was a matter that belonged entirely to the several States.\(^7\)

The North undertook the Civil War to preserve the Union and emancipation became a part of the war; but never during that terrible struggle was the enfranchisement of the negro thought of.

The constitutional history of the war is written in the Thirteenth, Fourteenth, and Fifteenth Amendments. Slavery was

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\(^1\) Appleton's Annual Cyclopaedia, 1868, p. 494.
\(^2\) Article II, Section 2.
\(^3\) Article II, Section 6.
\(^4\) Congressional Globe. Fifty-first Congress, Second Session. Part IV; Appendix, p. 52.
\(^7\) Men and Measures of Half a Century, by Hugh McCulloch, p. 378 et seq.
terminated by the downfall of the Confederacy and is legally abolished in the Thirteenth Amendment.¹ The Fourteenth Amendment established negro citizenship, and penalized his exclusion from the suffrage.² The Fifteenth Amendment prohibited the States from discriminating against the negro on account of race, color or previous condition of servitude.³

Senator Alfred H. Colquitt, of Georgia, in a speech in the United States Senate, December 15, 1890, said: “We must bear in mind that it has been the settled policy of this Government and this country before the war never to embrace in manhood suffrage the Indian (the native owner of the soil), the Chinaman, nor the negro. And the first two are still excluded from the ballot. This colored vote, therefore, has been a departure from the national policy of all our political parties.⁴

The nation had granted suffrage to the negro, but as he was without education, he could not vote intelligently. He became the tool of the “carpet-baggers” of the North. He was led to believe that he was clearly entitled to “forty acres and a mule,” and there was instilled into him a bitter hatred for his former master. Chaotic, indeed, was the condition of affairs that followed. Illiterate negroes were elected to important offices such as trial justices and school commissioners.⁵ These ex-slaves had absolutely no business experience and, from a financial standpoint, ruined the Southern States. During those reconstruction days when the negro was in control, every Southern State was plunged into debt as the following table⁶ will show:

**Debts and Liabilities of the Southern States.**

<table>
<thead>
<tr>
<th>States</th>
<th>At the close of the War.</th>
<th>After Reconstruction.</th>
<th>Increase.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>5,939,654.87</td>
<td>38,381,967.37</td>
<td>32,442,312.50</td>
</tr>
<tr>
<td>Arkansas</td>
<td>4,036,952.87</td>
<td>19,761,265.62</td>
<td>15,724,312.75</td>
</tr>
<tr>
<td>Florida</td>
<td>221,000.00</td>
<td>15,763,447.54</td>
<td>15,542,447.54</td>
</tr>
<tr>
<td>Georgia</td>
<td>Nominal</td>
<td>50,137,500.00</td>
<td>50,137,500.00</td>
</tr>
<tr>
<td>Louisiana</td>
<td>10,099,074.34</td>
<td>50,540,206.61</td>
<td>40,341,132.27</td>
</tr>
<tr>
<td>N. Carolina</td>
<td>9,699,500.00</td>
<td>34,887,467.85</td>
<td>25,187,967.85</td>
</tr>
<tr>
<td>S. Carolina</td>
<td>5,000,000.00</td>
<td>39,158,914.47</td>
<td>34,158,914.47</td>
</tr>
<tr>
<td>Mississippi</td>
<td>Nominal</td>
<td>20,000,000.00</td>
<td>20,000,000.00</td>
</tr>
<tr>
<td>Tennessee</td>
<td>20,105,606.66</td>
<td>45,688,263.46</td>
<td>25,582,656.80</td>
</tr>
<tr>
<td>Texas</td>
<td>Nominal</td>
<td>20,361,000.00</td>
<td>20,361,000.00</td>
</tr>
<tr>
<td>Virginia</td>
<td>31,938,144.59</td>
<td>45,480,542.21</td>
<td>13,542,397.62</td>
</tr>
<tr>
<td></td>
<td></td>
<td>87,139,933.33</td>
<td>380,160,575.13</td>
</tr>
<tr>
<td></td>
<td></td>
<td>293,020,641.80</td>
<td></td>
</tr>
</tbody>
</table>

¹ Ex parte Virginia, 100 U. S. 339.
Wanton extravagance, gigantic fraud, confiscation of the white man's property, widespread lust and outrage,—these were the main characteristics of negro domination. It may well be questioned whether negro suffrage was not tried and found wanting.

In the light of such unbearable exactions and abominable conditions, is it surprising that the white man, by means legitimate or otherwise, rose in his might and regained the reins of government? In 1870, Virginia, North Carolina, Georgia and Tennessee were redeemed from negro misrule. In 1873, Texas followed; in 1874, Alabama and Arkansas; in 1875, Mississippi; and in 1876, South Carolina, Florida and Louisiana.

Since the whites have regained control of the South and retired the negro from politics there has been an era of peace and prosperity. The negro has returned to "the shovel and the hoe" and greatly improved his economic condition. Since emancipation is such to-day, that it would not tolerate the use of the U. S. army to enforce the Fourteenth and Fifteenth Amendments and turn over to the negro majority the government of a single Southern State.

Chapter VII.

NEW SOUTHERN STATE CONSTITUTIONS.

After the whites regained their ascendancy in the South, they maintained it for a time by the revolutionary subterfuges of fraud and intimidation. The white man has gone to the polls with his shot gun, and led the colored man to understand that he had better keep away. Necessity has been the white man's plea in extenuation. They will never again submit to negro domination.

It must be admitted that these means for maintaining control are wilfully illegal. Open violation of the law in one respect, soon leads to general contempt for law and order. Expedients are, as a rule, followed by results often more terrible than the evil which they seek to correct.

If there is any one characteristic of the Anglo-Saxon which stands out more prominently than any other, it is his love of law and order. Extra-constitutional methods may sometimes be

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1 Appleton's Annual Cyclopaedia, 1870, pp. 746, 553, 341, 710.
2 Id, 1873, p. 739.
3 Id, 1874, pp. 17, 51.
4 Id, 1875, p. 517.
5 Id, 1876, pp. 727, 304, 493.
6 See Senator Tillman's letter, Chapter XI.
adopted to bring about essential and desirable reforms where laws seem hostile and halting. The Anglo-Saxon mind, however, soon becomes nauseated with general lawlessness, and makes every effort to have written down in statute form what has heretofore been done of its own free will and accord.

And so it was with the Southerner. He desired that the Constitution and statutory law of his State should be changed, so that the negro could be disfranchised by legal means, and the white man’s supremacy established in accordance with the spirit that he had inherited from centuries of conflict with autocratic power.

Clarence H. Poe, Raleigh, N. C., has said: “There is nothing more uncontrollable than lawlessness. To no certain spheres of activity can you confine it; to no certain periods of time can you limit it. It is subject to no law save that of growth: sow the wind and reap the whirlwind. Wink at your election officer’s thievery in times of stress and peril, and next you may have election thievery to aid plundering schemes, or to save the rings and cliques to which the election officer belongs. Give rein to mob violence at a time when you think such action justifiable, and you will find your reward in a popular contempt for the restraint of law, a permanent injury to public morals.

“So thoughtful Southern people soon came to perceive, if they did not understand from the first, the dangerous nature of these methods of dealing with the negro problem. The South had escaped the Black Peril, to be sure; but the baleful spirit of trickery and disorder with which she had leagued herself, and whose aid she had invoked, clave to her with the tenacity of an Old Man of the Sea, haunted and threatened her like another Mr. Hyde grown too powerful to be controlled by Dr. Jekyll. On the one hand, negro rule endangered peace and safety; on the other hand, the demagogue and trickster were a constant menace.”

To accomplish the desired end was a difficult problem, as the Fifteenth Amendment seemed to stand directly in the way, with its provision that no State should deprive any citizen of the right to vote on account of race, color, or previous condition of servitude. A way, however, was soon discovered.

In 1855 the people of Connecticut, by a vote of 17,275 to 12,518 passed an amendment to their State Constitution requiring that every person “be able to read any article of the (State) Constitution, or any section of the Statutes of this State, before being admitted an elector.” During the forty years succeeding, this section of the Constitution was construed in many ways by the boards for the admission of electors in the towns of the

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2 Amendment X.
State. In 1895, the State Legislature enacted a law providing that the reading should be "in the English language." Two years later by a majority of more than ten to one, the people of the State ratified an amendment embodying this requirement.¹

In 1857, Massachusetts under the influence of know-nothingism, for the purpose of cutting off the foreign vote, adopted an amendment to the State Constitution which says: "No person shall have the right to vote, or be eligible to office under the Constitution of this Commonwealth, who shall not be able to read the Constitution in the English language, and write his name: Provided, however, that the provisions of this amendment shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who has the right to vote, nor to any person who shall be sixty years of age or upwards at the time this amendment shall take effect."² And the Massachusetts courts have declared that such prerequisites for voting are perfectly proper.³

The Constitution of Colorado adopted in 1876 provides that: "The General Assembly may prescribe, by law, an educational qualification for electors, but no such law shall take effect prior to the year of our Lord one thousand eight hundred and ninety, and no qualified elector shall be thereby disqualified."⁴

When Wyoming was admitted to the Union, its Constitution⁵ provided that "no person shall have the right to vote who shall not be able to read the Constitution of this State."⁶ The Supreme Court of Wyoming has decided that the reading must be in English.⁷

In 1892, Maine ratified a State Constitutional amendment⁸ with practically the same provisions as that of Massachusetts.

In 1897, Delaware adopted a State Constitution in which it was provided that no one shall be entitled to vote unless he shall be "able to read this Constitution in the English language and write his name."⁹ But this test does not apply to any person who, by reason of physical disability, shall be unable to comply with it.

In the Constitution of Rhode Island as voted upon November 8, 1898, it is required that every voter shall be "able to read this Constitution in the English language, and write his name."¹⁰

To the voters of California, in 1896, was submitted the question of amending the State Constitution to provide that no person, not able to write his or her name should ever exercise the

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¹ Appleton's Annual Cyclopaedia, 1897, p. 247.
² Amendment XX.
³ Stone v. Smith 159, Mass. 413.
⁴ Article VII, Section 3.
⁵ Constitution adopted at Cheyenne, Sept. 30, 1889.
⁶ Article VI, Section 2.
⁸ Amendment XXIX.
⁹ Article V, Section 2.
¹⁰ Article II, Section 2.
privilege of an elector of the State. Included in this amendment, were also provisions for woman suffrage and perpetual Chinese exclusion. The amendment was voted down; but its defeat cannot be fairly attributed to the educational requirement.

In their struggle with the perplexing problem of negro suffrage, the Southern people began to look upon this Northern educational idea as a practicable solution of their difficulty. So that, beginning with Mississippi in 1890, we find the Southern States working along similar lines.

The Mississippi Constitution of 1890 provides that an elector must reside in the election precinct for at least one year, have paid the poll tax, and must "be able to read any section of the Constitution of the State, or shall be able to understand the same when read to him, or give a reasonable interpretation thereof."1 Hon. Wiley P. Harris, delegate from Hinds County, was the originator of this "understanding" clause. The Constitution further says: "Suitable remedies, by appeal or otherwise, shall be provided by law to correct illegal or improper registration and to secure the elective franchise to those who may be illegally or improperly denied the same,"2 so that ample opportunity for appeal to the State Courts is afforded for rectifying any alleged injustice.

The people of Mississippi assert that it is on account of his illiteracy that they are opposed to negro suffrage. In support of this, they point to the fact that every provision of their State Constitution applies equally to both races, so that, if the negro is ever educated up to the requirement, there is nothing to hinder his becoming an elector.

Senator George, in a speech3 delivered in the United States Senate, gave in detail the constitutional provisions of the various Northern States in regard to negro suffrage from the very beginning of the Union down to 1870, when, by the ratification of the Fifteenth Amendment, universal suffrage was proclaimed throughout the land. He maintained that the Mississippi Constitutional Convention was sincere in its motives when it provided the "understanding" clause. There were many illiterate whites in the South, who still had good common sense and were anxious to promote the welfare of their country. Illiteracy was not necessarily ignorance. The great white race would never submit to the domination of the negro. He also claimed that Mississippi, in adopting the Constitution of 1890, acted clearly within its limits of Constitutional power.

The South Carolina Constitution of 1895 went very much further in regard to this matter than Mississippi, and the people

1 Art. XII, Sec. 244.
2 Art. XII, Sec. 248.
3 Congressional Record. Fifty-first Congress, Second Session. Part IV, Appendix, p. 47; et seq.
openly declared that it was their purpose to disfranchise the negro. Governor Tillman in his first inaugural address said: "The dismal experiment of universal negro suffrage, inspired by hate and a cowardly desire for revenge, the rotten government built upon it and propped with bayonets, the race antagonism which blazed up and is still alive, the robbery under the form of taxation, the riot and debauchery in our legislative halls and in our capital, the prostitution and impotence of our courts of justice, while rape, arson, and murder stalked abroad in open daylight, the paralysis of trade, the stagnation of agriculture, the demoralization of society, the ignorance, the apathy, the despair which followed and brooded over the land—all these things have we endured and survived. Nearly a quarter of a century has passed since the two peoples who occupy our territory were taught to hate each other. * * * The negro was a staunch friend and faithful servant during the war, when there was every opportunity to glut upon our wives and children any hatred or desire for revenge. He had none. There is not a single instance on record of any disloyalty to his master's family during that trying and bloody period."1

The Charleston News and Courier, one of the leading journals of the State, in an editorial on the subject, stated: "Nobody tries to conceal it, nobody tries to excuse it. It is not meant to disfranchise every negro in this State—there are some of them who are qualified by education and property to vote—but it is intended that every colored voter, who can be disfranchised without violating the higher law of the United States Constitution, shall be deprived of the right to vote. On the other hand, it is meant to disfranchise no white man except for crime, if any way can be found to do it without violating the United States Constitution."

As United States Senator, Tillman frankly avowed the object of the people of South Carolina when he said: "As chairman of the Committee on Suffrage in the Constitutional Convention, which I had struggled for, for four years as governor to have called for the express purpose of dealing with this question; * * I approached it with all the solemnity of a man resolved by every possible scheme that he could devise, to take the ballot from every negro alive, if that had been allowed. But we could not do it because the Fifteenth Amendment barred the way. The Fifteenth Amendment prohibits any discrimination on account of race, color or previous condition. Therefore we had the simple and only alternative to provide for an educational qualification, with an elastic provision which enabled the illiterate whites to be registered, because we were unwilling to take the ballot from those of our own blood, some of them the best men we

have, who had lost the opportunity to get an education in their youth because they were fighting."

The Constitutional Convention was in session from September 10 to December 4, 1895. Governor John Gary Evans, who was president of the Convention, in his opening address said:

"There should be an educational qualification for the right of suffrage if the supremacy of intelligence is to be preserved. It is no injustice to any man, black or white, to have such a qualification, for only the intelligent are capable of governing. We must do our duty in this matter boldly and fearlessly, without regard to the censure of foreigners and aliens. We have experienced the cost and hardship of the rule of the ignorant, and know what it means.

"There is no room in this Convention for factional differences, and he who does not deprecate such is unworthy a seat in this hall. We have seen that white men can divide, and it is your duty, in view of such division, to so fix your election laws that your wives, your children and your homes will be protected and Anglo-Saxon supremacy preserved. Fix it as in your judgment appears wisest. This much is expected of you by your people and the outside world."

Until January 1, 1898, applicants for registration as voters, were to be able to "read any section of the Constitution submitted to them by the registration officer." All those registering before that date became permanent voters. After that, however, the applicant was to be registered only provided "he can both read and write any section of this Constitution submitted to him by the registration officer, or can show that he owns and has paid all taxes collectible during the previous year on property in the State assessed at three hundred dollars ($300) or more."

The Louisiana Constitution of 1908 also used an educational qualification for the ostensible purpose of disfranchising the negro. Three options were offered:

1. Each applicant is required to demonstrate his ability to read and write, by making written application for registration in the English language or in his mother tongue. The application must be "entirely written, dated and signed by him in the presence of the registration officer, or his deputy, without assistance or suggestion from any person, or any memorandum whatever except the form of the application herein set forth."

2. If the applicant cannot read and write, he may be registered, upon proving that he owns and has paid taxes upon prop-

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2 Article II, Section 4(c).
3 Article II, Section 4(d).
4 Article CXCVII, Section 3.
erty assessed to him in Louisiana, at a value of not less than three hundred dollars ($300).\footnote{Article CXCVII, Section 4.}

Option 1 would disfranchise the great bulk of the negroes; but at the same time would exclude thousands of the whites. Option 2 would go strongly against both races. So a third option was provided which permitted practically all whites to vote.

(3) This was that “No male person who was, on January 1, 1867, or at any date prior thereto, entitled to vote under the Constitution, or Statutes of any State of the United States, wherein he then resided, and no son or grandson of any such person not less than twenty-one years of age at the date of the adoption of this Constitution, and no male person of foreign birth, who was naturalized prior to the first day of January, 1898, shall be denied the right to register and vote in the State by reason of his failure to possess the educational or property qualifications prescribed by this Constitution; provided, he shall have resided in this State for five years next preceding the date at which he shall apply for registration, and shall have registered in accordance with the terms of this article, prior to September 1, 1898, and no person shall be entitled to register under this section after said date.”\footnote{Article CXCVII, Section 5.}

Hon. Ernest B. Kruttschnitt, who had been unanimously elected President of the Constitutional Convention, on assuming the office said: “We have here no political antagonism and I am called upon to preside over what is little more than a family meeting of the Democratic party of the State of Louisiana * * * We are all aware that this Convention has been called by the people of the State of Louisiana principally to deal with one question, and we know that but for the existence of that one question this assemblage would not be sitting here to-day. We know that this convention has been called together by the people of the State to eliminate from the electorate the mass of corrupt and illiterate voters who have during the last quarter of a century degraded our politics * * * but there are men standing high to-day in the councils of the nation, who have seen the doors of the White House blocked by the ignorant and corrupt delegations of Southern negroes, and we know that they cannot but feel a sympathy with us in our aspirations and efforts.”\footnote{Suffrage Clause in Louisiana Constitution, by Amasa M. Eaton, in Harvard Law Review, Vol. XIII, p. 282.}

And in closing the Convention he said: “We have not drafted the exact Constitution we should have liked to have drafted; otherwise we should have inscribed it, if I know the popular sentiment of this State, universal white manhood suffrage and the exclusion from the suffrage of every man with a trace of African blood in his veins. We could not do that on account
of the Fifteenth Amendment to the Constitution of the United States * * * What care I whether the test we have put be a new one or an old one? What care I whether it be more or less ridiculous or not? Doesn’t it meet the case? Doesn’t it let the white man vote, and doesn’t it stop the negro from voting, and isn’t that what we came here for?”

Governor Murphy J. Foster, in approving the new Constitution, maintained that: “The white supremacy for which we have so long struggled at the cost of so much precious blood and treasure is now crystallized into the Constitution as a fundamental part and parcel of that organic instrument, and that, too, by no subterfuge or evasions. With this great principle firmly imbedded in the Constitution and honestly enforced, there need be no longer any fear as to the honesty and purity of our future elections.”

The North Carolina Constitutional Amendment of 1900, disfranchising the illiterate negroes, was adopted by a majority of nearly 60,000. It provides:

(1) Except as hereinafter provided, only those male persons shall henceforth be entitled to vote who are able to read and write any section of the Constitution in the English language, and who, on or before the first day of May preceding the election at which they propose to vote, have paid their poll tax for the previous year.

(2) But no male person who was on or before January 1, 1867, entitled to vote under the laws of any State wherein he resided, and no lineal descendant of such person shall be disfranchised by reason of his failure to possess the education qualifications herein prescribed, provided that he has already registered or shall register prior to January 1, 1908, and any person so registered shall have the right to vote at any and all elections, upon payment of his poll tax.

(3) This amendment to the State Constitution is presented and adopted as one indivisible plan for the regulation of the suffrage, with the intent and purpose to so connect the different parts, and to make them so dependent upon each other, that the whole shall stand or fall together.

Hon. Charles B. Aycock, the successful Democratic nominee for governor, in his speech of acceptance on April 11, 1900, said:

“We must disfranchise the negro. This movement comes from the people. Politicians have been afraid of it, and have hesitated, but the great mass of white men in the State are now demanding, and have demanded that the matter be settled once for all * * * The amendment to the Constitution is presented in solution of the problem. It is plain and simple. It

2 Appleton’s Annual Cyclopaedia, 1898, p. 409.
proceeds along wise lines. It is carefully and thoughtfully drawn. It stays inside the Fifteenth Amendment, and nevertheless accomplishes its purpose. It adopts the suggestion of Senator Cullom, and demands the 'existence of sufficient intelligence, either by "inheritance or education,"' as a necessary qualification for voting; it requires of the negro the qualification of education, because he has it not by inheritance, and demands of the white man only that he possess it by inheritance; it does not sweep the field of expedients to disfranchise the negro, which is held constitutional in the Mississippi Case, but seizes upon his educational unfitness, and saves the whites from participation therein by boldly recognizing the claim of their hereditary fitness. The amendment makes a distinction between a white man and a negro, but it does so on the ground that the white man has a knowledge by inheritance which the negro has not."

The Alabama Constitution of 1901 contains many provisions similar to those of South Carolina. Hon. John B. Knox, president of the Constitutional Convention, in his opening address, said: "And what is it that we want to do? Why, it is within the limits imposed by the Federal Constitution to establish white supremacy in this State." These were the sentiments which actuated the whole proceedings of the convention.

Ex-Governor Oates said that there were two methods of getting control of the State government from "carpet-bag" rule: one by force, the other by fraud. "I was an advocate of the latter because it didn't take life * * * Unfortunately it was a necessity. We could not help ourselves. We had to do it or do worse. But we have gone on from bad to worse until it is a great evil."8

Another speaker said: "But if we would have white supremacy we must establish it by law—not by force or fraud. If you teach your boy that it is right to buy a vote, it is an easy step for him to learn to use money to bribe officials or trustees of any class. If you teach your boy that it is right to steal votes, it is an easy step for him to believe that it is right to steal whatever he may need or greatly desire."8

Governor Johnston was opposed to a new Constitution, claiming that conditions were satisfactory under the old one. He said: "There is not a negro in all the Commonwealth holding an office under the present Constitution, nor a justice of the peace, nor a constable, nor a single member of the General Assembly, nor has been there for a generation."4

The Constitution provides that any time until December 20, 1902, the following might register as life electors:

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1 Is the Negro Disfranchised? By Wilford H. Smith, in The Outlook, Vol. LXXIX, 1907.
3 Id., May 23, 1901, p. 1.
4 International Year Book, 1901, p. 17.
(1) All persons who had served in the armies of the United States or Confederate States, and all descendants of such persons; and all persons who were of good character and who understood the duties and obligations of citizenship under a republican form of government. Of this good character and the duties of citizenship, a board of three registers, appointed in each county, were to be the judges, though appeals from their decisions might be taken to the State Courts.

(2) After January 1, 1903, all those persons, not previously registered as life voters, might vote who were qualified as follows:

(a) Those who could read and write any article of the Constitution, and who, unless physically disabled, had been engaged in some lawful occupation or calling for the greater part of the twelve months preceding the time they offered to register; or

(b) Those who were either bona-fide owners of forty acres of land in the State, or owners of real or personal property whose assessed value was three hundred dollars ($300) or more.

That “lawful occupation” clause was specifically aimed against those negroes of the younger generation, who were sufficiently educated not to be debarred by an educational qualification, but who were, nevertheless, too lazy to work, who were undesirable citizens generally, and apt to be politically corrupt.

The Virginia Constitution of 1901 contains the following provisions in regard to suffrage:

(1) Any soldier, or son of a soldier, any owner of property of value liable to one dollar of State taxes, i.e., worth about $300, any person, able to read any section of the Constitution and to give a reasonable explanation of the same, or to understand and explain it when read to him, can register prior to January 1, 1904.

(2) After January 1, 1904, any male citizen who has paid his poll taxes for three years preceding, and who is able to make his application for registration in his own handwriting, without aid, suggestion, or memorandum, can vote. But, if he has served as a soldier in the army or navy of the United States or of the Confederate States, or any of them, he is not required to pay his poll tax as a prerequisite to the right to register.

One delegate in the Virginia Convention giving expression to the prevailing sentiment, said: “There will never come a time in the history of this State when the Anglo-Saxon will again submit to the domination of the black man. No matter what it costs, no matter what the method, this one fact stands out supremely true—that the Anglo-Saxon race is now, and will be forever master wherever it exists.”

1 Richmond Dispatch, April 2, 1902, p. 9.
United States Senator Daniel, of Virginia, said that the white man must rule, but "we want him to rule in the supremacy of decency and with the association of law and order which will command the respect, not only of himself, but of the whole civilized world."1

The Maryland ballot law of 1901 appeared to be eminently fair. It made severe rules to prevent those persons from voting who had not a bona-fide residence in the State, and it formulated a ballot law necessitating a limited amount of intelligence on the part of the voter.

Party emblems, which in the past have been sign-posts to the illiterate voter, were abolished and the voter must now put a cross-mark beside each candidate's name that he wants to vote for. The names of the candidates are arranged alphabetically according to surname under the designation of the office. No assistance can be rendered by poll-clerks except to the blind or physically disabled. If more names are marked than there are persons to be elected to any office the ballot is invalidated. No attempt was made, directly or indirectly, to discriminate against the negro; nevertheless, on account of the intricacies of the ballot, it is estimated that more than 30,000 negroes and 10,000 whites are thereby disfranchised. A proposed amendment to the State Constitution practically eliminating negro suffrage was defeated at the election of 1905, but largely on account of the fight, within the Democratic party, on Senator Gorman.

So, general property and educational qualifications were introduced to keep out the negro, while special exemption clauses were put in to admit all whites. The "grandfather" clause, based on descent from a voter has existed only in North Carolina and Louisiana. In the former it ended in 1908; in the latter it ended in 1898. Undoubtedly this provision was suggested by the provision in the Massachusetts Constitution2 making the right to vote in 1857 a sufficient qualification for registration. There are "understanding" and "good character" clauses in the Constitutions of South Carolina, Alabama, Virginia and Mississippi. In South Carolina they ceased to be operative in 1898 and in Alabama and Virginia in 1903; but form part of the permanent plan in the Mississippi Constitution.3

It would never do to disfranchise a white man—an end which it would be impossible to accomplish, and at the same time utilize all possible means for keeping up the white man's supremacy. Consequently, vast discretionary powers were granted to the election officials.

1 Richmond Dispatch, April 2, 1902, p. 9.
2 Amendment XX.
3 Suffrage Limitations at the South, by Francis G. Caffrey, in Pol. Sci. Quar., Vol. XX, p. 56.
Undoubtedly, these new constitutions have greatly improved the electorate. Will the present settlement, however, not be comparatively temporary? As the negro casts off his illiteracy, will not this suffrage problem need be solved anew?

For many years Northern men, at a distance from the source of trouble, advocated unqualified suffrage for the negro. Recently the negro has been overrunning the North in large numbers, settling, as a rule, in the cities. Studying him at close range, Northern opinion seems to be changing, and from closer familiarity the Northern view coincides to a much more considerable extent with that of the Southern whites.

In localities in which there is no occasion for controversy the old spirit of liberty and equal rights, as enunciated in the Declaration of Independence, counts for the negro. Yet, when the negro has been thrust in among Northerners, does not the very thought of political and social equality become abhorrent to the white man? And, as a matter of experience, is not the negro debarred by the white man from familiarity and social privilege in nearly every relation of life in the North today?

How pithy and true was the remark of Senator Tillman, when, in speaking of the attitude of the Northerners toward the negro, he said that they “love him according to the square of the distance.”

CHAPTER VIII.

DECISIONS AFFECTING NEW SOUTHERN CONSTITUTIONS.

In rendering a decision in a case where Chinese had been denied certain privileges simply because of their race, the Supreme Court of the United States held that a law which would allow such discrimination on the part of a public official was unconstitutional. It declared: "Though the law itself be fair on its face and impartial in appearance yet if it is applied and administered by public authority with an evil eye and unequal hand so as practically to make unjust and unequal discriminations between persons in similar circumstances, material to their rights, the denial of equal justice is still within the prohibition of the Constitution * * * When we consider the nature and theory of our institutions of government, the principles upon which they are supposed to rest and review the history of their

development, we are constrained to conclude that they do not mean to leave room for the play and action of purely personal and arbitrary power." 1 With such a decision before one, it was to be expected that the suffrage provisions of the new Constitutions, openly adopted for the express purpose of violating the intent and spirit of the Fifteenth Amendment, would soon be declared null and void. But let us see.

One, Henry Williams, had been indicted for murder by a grand jury composed entirely of white men. He moved to have the indictment quashed, alleging that the State Constitution and laws of Mississippi denied him rights which were guaranteed him under the Constitution of the United States. This motion was denied.

Later, he moved that the case be removed to the Circuit Court of the United States, under Section 641 of the United States Revised Statutes, which provides: "When any suit or criminal prosecution is commenced in any State Court for any cause whatever, against any person who is denied or cannot enforce in the judicial tribunals of the State where such suit or prosecution is pending, any right secured to him by any law providing for the equal rights of citizens of the United States * * * such suit or prosecution may, upon the petition of such defendant, filed in such State Court at any time before the trial or final hearing of the cause, stating the facts and verified by oath, be removed for trial into the next Circuit Court to be held in the district where it is pending." This motion was also denied.

By a jury composed entirely of white men, he was later convicted and sentenced to be hanged. The Supreme Court of Mississippi affirmed the conviction, and the case was then carried to the United States Supreme Court.

Attention was called to the suffrage provisions of the State Constitution of Mississippi and also to the provision which says that no person should be "a grand or petit juror unless a qualified elector and able to read and write"; 2 and that from the registration of voters, the supervisors should make the list of jurors, selecting "persons of good intelligence, sound judgment, and fair character." 3

Williams alleged that the State Constitution gave such discretion to State officers for the purpose of abridging the suffrage of the colored people; that, although the blacks numerically outnumbered the whites, they had only one member of the convention out of one hundred and thirty-five.

The Court declared that it had not been shown that the Constitution and Statutes of the State had been directed to operate against the negroes "on account of race, color or previous con-

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2 Article XIV, Section 264.
3 Code of 1892 of the State of Mississippi, Section 2358.
dition of servitude.” And further, “it has not been shown that their actual administration was evil, only that evil was possible under them.”

Thus the first of the new Southern State Constitutions, whose object was “to sweep the circle of expedients to obstruct the exercise of suffrage by the negro race,” was sustained by the highest tribunal in the land.

J. W. Giles, a colored citizen of the State of Alabama, brought an action in the United States Supreme Court against the Registrars of Montgomery County, Alabama, to compel them to register him as a voter, contending that the provisions of the Constitution of Alabama were repugnant to the Constitution of the United States “in their intent and purpose and in their language and meaning, as well as by their operation and administration, and in effect as well as in fact, they deprived him and his race of the equal protection of the law and of their right to vote, for no other reason than their race and color and previous condition of servitude.” He offered in evidence extracts from the Census Report tending to show “the suppression of negro majorities in more than twenty counties,” and also stated that “negro majorities in the State of Alabama had been overcome by fraud and intimidation for twenty years, and that the provisions of the new Constitution were to take the place of fraudulent methods and intimidation in the government of the Commonwealth.”

The complaint was dismissed on the demurrer of the Registrars who contended, that even if what Giles said was true, nevertheless, there was no cause of action.

The opinion of the Court, handed down by Justice Oliver Wendell Holmes, stated two objections to the contention of Giles:

(1) That the plaintiff asks the Court to direct that the Registrars register him under a law which he, the plaintiff, claims to be unconstitutional in fact and fraudulent in intent. “How can we make the Court a party to the unlawful scheme by accepting it and adding another voter to its fraudulent lists? If a white man came here on the same allegations, admitting his sympathy with the plan, but alleging some special prejudice that had kept him off the list, we hardly should think it necessary to meet him with a reasoned answer.”

(2) The plaintiff asks the Court to undertake a task beyond its powers to perform, because beyond its jurisdiction to attempt. If a wrong exists, it is political in its nature, and the remedy must be political and not judicial. “The bill imports that the great mass of the white population intends to keep the blacks from voting. To meet such an intent, something more than

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1 Williams v. Mississippi, 170 U. S. 213.
3 Giles v. Harris, 189 U. S. 486.
ordering the plaintiff's name to be inscribed on the lists of 1902 will be needed. If the conspiracy and the intent exist, a name on a piece of paper will not defeat them. Unless we are prepared to supervise the voting in that State by officers of the Court, it seems to us that all the plaintiff could get from equity would be an empty form. Apart from damages to the individual, relief from a great political wrong, if done, as alleged, by the people of a State and the State itself, must be given by them or by the legislative and political department of the Government of the United States."

The constitutionality of the Virginia Constitution was brought into question in a decision handed down April 25, 1904. It will be remembered that the Virginia Constitution was adopted in 1901. An election for congressmen was held November 4, 1902. On November 14, 1902, the plaintiff in this case applied to the Circuit Court of the United States for the Eastern District of Virginia for a writ of prohibition. The plaintiff alleged that after the new Constitution had been framed, it was not submitted to the people of the State for ratification; that the purpose of the new Constitution was the disfranchisement of the colored voters of the State, and set forth how this disfranchisement was to be accomplished.

The prayer of the petition was that a writ of prohibition issue to the defendants "prohibiting them and each of them from considering, canvassing, counting, determining upon, or certifying or otherwise acting upon, any returns or abstract of returns in the office of the Secretary of the Commonwealth of Virginia, purporting to be returns of election held in the State of Virginia, Tuesday, November 4, 1902, for representatives in Congress from the State of Virginia, or in any wise dealing with or certifying the results of said returns as returns of a lawful election, held in Virginia on the date aforesaid. That, by reason of the matters and things hereinabove set forth, said pretended election, and any and all precinct, county, district or State returns made thereunder may be held to be null, void, and of no effect, and the said board of State canvassers, and the members thereof, may be prohibited from in anywise proceeding to act upon the same as lawfully before them for their consideration; that pending the hearing and until the final decision upon this petition for said writ of prohibition, an order may be granted by this honorable court suspending any and all proceedings, on the part of said board of canvassers and the members thereof, upon any and all of the matters sought to be prohibited until the final decision of this cause. And for such other and further orders in the premises as shall and may make the prayer of your petitioners effectual."

1 Giles v. Harris, 189 U. S., 488.
The denial of the writ of prohibition by the Circuit Court was based on a want of jurisdiction. The petitioners at once brought the case on error directly to the United States Supreme Court.

A motion was later made to dismiss the writ of error on the ground that everything sought to be prohibited had already been done, and there was nothing upon which any order of the Court could operate, as the State board of canvassers had already met, canvassed the vote, and issued certificates of election.

This motion was granted as the United States Supreme Court has uniformly held that it will not undertake to pass upon merely abstract or moot questions.\(^1\)

Thus, in the Virginia Case, the issue was not squarely defined and met; but the present inclination of the Court seems to be favorable to the new constitutions.

Chapter IX.

WHAT THE NEW CONSTITUTIONS REALLY DO.

Taking all of the new Southern State Constitutions into consideration, regardless of the motives which prompted their adoption, the facts are that:

1. None of them, in explicit terms actually violates the provisions of the Fifteenth Amendment, by excluding any persons on account of race, color or previous condition of servitude, although directly violating its spirit.

2. None excludes the negro from suffrage, simply because he is a negro. However, in the registration of 1902 in Montgomery County, Alabama, with a negro population of 52,000 only 27 negroes were registered.\(^2\)

3. The educational and property qualifications apply equally to blacks and whites. As an example of how these qualifications have restricted the suffrage we can take the results\(^3\) in Louisiana. On January 1, 1897, the total number of registered voters throughout the State (under Act 123 of 1880) was as follows (figures incomplete):

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Whites</td>
<td>164,088</td>
</tr>
<tr>
<td>Negroes</td>
<td>130,344</td>
</tr>
<tr>
<td>Literate whites</td>
<td>133,608</td>
</tr>
<tr>
<td>Whites who made their X mark</td>
<td>28,371</td>
</tr>
<tr>
<td>Literate negroes</td>
<td>33,803</td>
</tr>
<tr>
<td>Negroes who made their X mark</td>
<td>94,498</td>
</tr>
</tbody>
</table>

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The registration for the election of 1900 under the Constitution of 1898 was as follows:

<table>
<thead>
<tr>
<th>Category</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Whites</td>
<td>125,437</td>
</tr>
<tr>
<td>Negroes</td>
<td>5,320</td>
</tr>
<tr>
<td>Registration under &quot;grandfather&quot; and &quot;naturalization&quot; clauses</td>
<td>29,189</td>
</tr>
<tr>
<td>Whites coming in under educational qualification</td>
<td>86,157</td>
</tr>
<tr>
<td>Whites coming in under property qualification</td>
<td>10,793</td>
</tr>
<tr>
<td>Negroes coming in under educational qualification</td>
<td>4,327</td>
</tr>
<tr>
<td>Negroes coming under property qualification</td>
<td>916</td>
</tr>
</tbody>
</table>

And from the fact that certain exceptions are made to these educational and property qualifications, it is evident that they differ in no respect from Massachusetts, which has an educational qualification "except that no person, who is prevented from reading and writing, as aforesaid, by physical disability, or who had the right to vote on the first day of May, 1857, shall, if otherwise qualified, be deprived of the right to vote by reason of not being able to read or write."

The right to vote in any State comes directly from the State itself; but the right of exemption from the prohibited discrimination comes from the Fifteenth Amendment of the United States Constitution. The right to vote has not been granted by the Federal Constitution, but the right to exemption from the prohibited discrimination has. There is not a single suffrage provision in any of the Southern Constitutions that discriminates on account of race, color, or previous condition of servitude.

The United States Supreme Court in deciding a case involving the Fourteenth and Fifteenth Amendments, said: "The right to vote intended to be protected refers to the right to vote as established by the laws and Constitution of the State. There is no color for the contention that under the amendment every male inhabitant of the State, being a citizen of the United States, has, from the time of his majority, a right to vote for Presidential electors. The object of the Fourteenth Amendment, in respect to citizenship, was to preserve equality of rights, and to prevent discrimination as between citizens, but not to radically change the whole theory of the relations of the State and the Federal Government to each other, and of both governments to the people."\(^1\)

As it is thus clearly pointed out that the State has the exclusive right to grant the privilege of suffrage, then it may assuredly discriminate between its citizens as to suffrage qualifications, provided no discrimination is made on account of race, color or previous condition of servitude.

(4) In all the Southern States, any negro who possesses three

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hundred dollars ($300) and can read and write in the English language, is permitted to vote. If a person be disfranchised because of a property qualification he may by thrift become a property holder and remove the disqualification; if, being an illiterate, and failing to register within the specified time limit to become a permanent voter, he may learn to read and write and thereby qualify.

(5) In three of the Southern States, any negro who can read and write in the English language and has paid the poll tax, is permitted to vote, although he may not possess any taxable property.

(6) In three States he can vote if he owns taxable property, even though he cannot read and write.

(7) The electorate of the Southern States must continue to improve with the educational qualification. The plan is to put the control of the government in the hands of the intelligent people of the State.

Dr. Lyman Abbott has said: "The permanent provisions of the Constitutions—and these alone are now in effect in any of the Southern States except North Carolina—are just and right provisions. Properly enforced, they are beneficent to the negro as well as to the white man. It would be well if Northern States were to follow the example which these Southern States have set to them, and were to attach similar limitations to the suffrage; and in all those States the negroes might well appoint a day of thanksgiving for the action which has made it possible in the future for ignorant, shiftless and corrupt negroes to misrepresent their race in political action."

Booker T. Washington asserts: "Every revised Constitution of the Southern States has put a premium upon intelligence, ownership of property, thrift and character."

(8) These Constitutions represent the determined and everlasting opposition of the whites to negro domination, and a fixed purpose to maintain white supremacy. This opposition is based upon three reasons:

(1) Negro misgovernment during carpet-bag days;

(2) The fear of social equality between the races or their amalgamation; and

(3) The outrageous crimes of the negro against the person of white women.

Governor Blanchard, of Louisiana, in his inaugural address, said: "No approach toward social equality or social recognition will ever be tolerated in Louisiana. Separate schools, separate churches, separate cars, separate places of entertainment will be enforced. Racial distinction in its integrity must be preserved."

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1 Editorial in The Outlook, Vol. LXXVI, p. 634.
2 201 Edinburgh Review, 65.
(9) The new Southern State Constitutions seem to be fairly enforced; and we find a marked example of this in Alabama. An intelligent negro who had fought in the Union Army, brought suit in the Circuit Court of Alabama to have the Registrars of Limestone County enroll his name upon the voting list. He appealed to the Court under a provision of the State Constitution, authorizing such appeal without cost by any person whose right is denied. In that Court his right was passed upon by a jury composed entirely of white men. The Court and jury upheld his right to vote, and this right, upon an appeal prosecuted by the registrars in the name of the State, was sustained by the Supreme Court of Alabama.1

Judge Cooley, our foremost authority on constitutional law, has said: "To require the payment of a capitation tax is no denial of suffrage; it is demanding only the preliminary performance of a public duty, and may be classed, as may also presence at the polls, with registration or the observance of any other preliminary to insure fairness and protect against fraud. Nor can it be said that to require ability to read is any denial of suffrage. To refuse to receive one's vote because he was born in some particular country rather than elsewhere, or because of his color, or because of any natural quality, or peculiarity, which it would be impossible for him to overcome, is plainly a denial of suffrage. But ability to read is something within the power of every man; it is not difficult to attain it, and it is no hardship to require it. On the contrary, the requirement, only by indirection, compels one to appropriate a personal benefit he might otherwise neglect. It denies to no man the suffrage, but the privilege is freely tendered to all, subject only to a condition that is beneficial in its performance and light in its burden."2

Because any particular State Constitution or law works hardships or injustice, that fact alone does not of itself make it unconstitutional.3 The legislature of each State is the sole judge as to the wisdom or policy of State law, and the sole province of the Federal Court is to state if the law is contrary or repugnant to the United States Constitution.4 The Court itself had stated "that whenever an act of the legislature is challenged in Court, the inquiry is limited to the question of power, and does not extend to the matter of expediency, the motives of the legislators, or the reasons which were spread before them to induce the passage of the act. This principle rests upon the independence of the legislature as one of the co-ordinate branches of

1 State v. Crenshaw 138, Alabama 506.
4 County of Mobile v. Kimball, 102 U. S. 691.
the government. It would not be seemly for either of the three
departments to be instituting an inquiry as to whether another
acted wisely, intelligently or corruptly.\textsuperscript{1}

“The rule is general with reference to the enactment of all
legislative bodies that courts cannot inquire into the motives of
the legislators in passing them, except as they may be disclosed
on the face of the acts, or inferrable from their operation, con-
sidered with reference to the condition of the country and exist-
ing legislation. The motives of the legislators considered as the
purposes they had in view, will always be presumed to be to
accomplish that which follows as the natural and reasonable
effect of their enactments. Their motives, considered as the
moral inducements for their votes, will vary with the different
members of the legislative body. The diverse character of all
such motives, and the impossibility of penetrating into the hearts
of men and ascertaining the truth, precludes all such inquiries
as impracticable and futile.”\textsuperscript{2}

In a later case the Court declares: “In determining whether
the legislature, in a particular enactment, has passed the limits
of its constitutional authority, every reasonable presumption
must be indulged in favor of the validity of such enactment.
It must be regarded as valid unless it can be clearly shown to
be in conflict with the Constitution. It is a well settled rule of
constitutional exposition, that if any statute, may or may not be,
according to circumstances, within the limits of legislative au-
thority, the existence of the circumstances necessary to support
it must be presumed.”\textsuperscript{3}

The practical result of these Constitutions is that the South
has disfranchised the negro, and intends to keep him disfran-
chised. As far as the negro is concerned, the Fifteenth Amend-
ment has been and is a dead letter. These constitutions simply
write down in legal form what has existed as a fact since 1876.
In the Southern States which have not adopted new Constitu-
tions (Georgia, Tennessee, Florida), the negro is just as com-
pletely disfranchised, but by the old methods of fraud and
intimidation.

In justifying the attitude of the South toward the Fifteenth
Amendment a representative Southerner has said: “The under-
standing clauses and the grandfather provisions of the State law
are already adequate to annul its intended influence and to limit
the negro vote wherever that vote, through the overwhelming
numbers of an illiterate and shiftless electorate, would involve
the county or the State in social, civic and commercial ruin.
I do not believe in legislative subterfuges, but the legislative

\textsuperscript{1} Fletcher v. Peck, 6 Cranch 87; Dodge v. Woolsey, 18 How. 371; United States v.
Des Moines, 142 U. S. 545; Angle v. Chicago, St. Paul, etc., R. R., 151 U. S. 1,
\textsuperscript{2} Soon Hing v. Crowley, 133 U. S. 759.
\textsuperscript{3} Sweet v. Rechel, 159 U. S. 380.
subterfuge represents a higher morality than the dominion of a brutal and irresponsible illiteracy.”

Professor Albert B. Hart, for whom all students of history have profound respect, in concluding an address on the “Realities of Negro Suffrage” before the American Political Science Association, remarked: “The principal grounds for criticism are two: first, that the system is really, though not openly, a discrimination between men on the ground, not of their character or their acquisitions, but of their color; secondly, that it means the permanent disfranchisement of the greater part of the negro race, and their consequent relegation to a position in which one of the most effective springs of thrift and ambition is removed.” That these conclusions are logical from a purely academic standpoint there can be no doubt; but is it not wiser to take the more practical view that the whole Southern question is one of race supremacy, where neither political nor social equality of the races meets with public sanction, and from the very makeup of human nature they never will?

Is not the contention of the Southern people sound, when they assume the right to restrict suffrage within the limits of the United States Constitution, just as Northern States, like California, Connecticut and Massachusetts have limited and restricted its exercise?

Negro education is very generously supported, as will be seen by the fact that in 1890, there were in Alabama only 41,007 black literates, while in 1900 there were 73,533, showing an increase of more than eighty per cent. In Alabama, in 1890, 72.2 per cent. of the colored population were illiterate, while in 1900, the percentage had decreased to 59.5 per cent. It is not pertinent to ask whether California is doing as much for her illiterate Chinese population, which she has so effectively disfranchised? A reliable authority reports that: “In North Carolina, since the adoption of our suffrage amendments, the increase in negro school attendance has been very marked; not many miles from where I now write, an illiterate negro, sixty years old, is going to school to qualify himself for voting.”

“The Fifteenth Amendment does not confer the right of suffrage upon any one. It prevents the States or the United States, however, from giving preference to one citizen of the United States over another, on account of race, color, or previous condition of servitude. Before its adoption, this discrimination could be made. It was as much within the power of a State to exclude

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1 From an address by Edgar G. Murphy as reported in the Annals of the American Academy of Political and Social Science, Vol. XV, p. 185.
4 Census Report, 1900.
citizens of the United States from voting on account of race and color, as it was on account of age, property or education. Now it is not. If citizens of one race, having certain qualifications, are permitted by law to vote, those of another, having the same qualifications, have the like privilege. Prior to this Amendment, there was no constitutional guaranty against this discrimination; now there is. It follows that the amendment has invested the citizens of the United States with a new constitutional right which is within the protecting power of Congress. This right is exemption from discrimination in the exercise of the elective franchise, on account of race, color, or previous condition of servitude.

According to the decisions of the Supreme Court, each State may adopt laws of suffrage provided they are in terms uniform and non-discriminating. The new Southern State Constitutions do, in fact, deprive the negro of suffrage and evade the provisions of the Fifteenth Amendment. Open violations of the fundamental law of the land only bring the law into contempt. Would it not be better and wiser to settle the question squarely, by repealing the Fifteenth Amendment and the second section of the Fourteenth Amendment. The question of suffrage would then be placed where it properly belongs, entirely within the control of the State.

The more recent decisions of the United States Supreme Court in the Insular Cases have brought us to a full realization of the fact that it is possible to give the benefits of civil rights to a citizen without conferring suffrage. We have consequently changed our attitude toward the negro problem and the Fourteenth and Fifteenth Amendments.

Chapter X.

Representation.

In the Constitutional Convention of 1787, there was a long and heated discussion about a suitable basis for representation in the lower branch of Congress. The following compromise clause was finally adopted: "Representatives, and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons."2

Thus the apportionment of representation in the House of

1 United States v. Reese, 92 U. S. 214.
2 Constitution of the United States, Article I, Section 2, Clause 3.
Representatives is based upon the population in the respective States, and not upon the number of votes cast. The number of votes cast would not offer an equitable basis of apportionment, because there is not always the same interest in elections. Some years we have what is termed a "light" vote and other years a "heavy" vote.

At the close of the Civil War in 1865, the population for the purposes of representation had been largely increased in the South, from the fact that slavery had been abolished, and the blacks were now fully counted instead of only three-fifths as before. The result was, the Southern States found their quota in the House of Representatives numerically increased.

The Northerners would not tolerate this unless there was some *quid pro quo* forthcoming. To serve as a punishment for rebellion and as a protection to the former slaves, a penalty in the shape of a reduction in the Southern representation was provided in the Fourteenth Amendment, if suffrage was denied the negro. It says: "But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens, twenty-one years of age in such State."\(^1\)

In 1867, the Federal bayonet put the negro in full possession of the ballot and also of the Southern States, and the ex-Con federates were disqualified\(^2\) for public office. Shortly afterward, the Fifteenth Amendment was adopted. Immediately a contest arose between the positive law of the Amendments, and the natural conditions and customs of the South. In every such contest the positive law is overridden, because it does not have public sanction. As Alexander Hamilton said: "How unequal are parchment provisions to struggle with public necessity."\(^3\)

Since the withdrawal of the military, negro suffrage and negro control have been swept aside. The fact is that as far as the negro in the South is concerned, the Fifteenth Amendment is dead. It is idle to argue that anything short of military force can ever restore the ballot to the negro.

For many years, the negro appealed to the sympathetic people in the North and to Congress to restore the ballot to him, and

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\(^1\) Amendment XIV, Clause 2.
\(^2\) Amendment XIV, Clause 3.
\(^3\) Quoted by Hon. H. D. Mony, of Mississippi, in his speech in the Senate of the United States, March 18, 1903.
many so-called "Force Bills" have been considered; but there is a growing tendency to go back to the belief that, after all, the question of suffrage is one belonging entirely to the State and without Federal jurisdiction. This change in public sentiment is simply the swinging of the pendulum away from the ultra centralization and federalism following the Civil War.

The post-bellum days were filled with the most bitter sectional prejudice. The Southerners nursed their resentment over the treatment accorded them during the period of reconstruction, and the Northerner could find no other terms than "rebel" or "traitor" to characterize the ex-Confederate. We were politically a unit; but divided into two distinctively hostile groups.

With the adoption of the new Constitutions in the South, a great hue and cry has been raised by the remnant of the old abolitionists and suffrage theorists, and a general allegation has been made that the Fourteenth and Fifteenth Amendments have been directly violated. As a consequence, it is asserted that the Southern States should be duly punished, and put again under compulsion. An analysis of this contention will show that:

(1) As far as the Fourteenth Amendment is concerned, the only punishment which could be meted out would be a reduction in representation. Section 2 provides for such a contingency, by demanding reduction wherever there is any restriction of the suffrage "except for participation in rebellion or other crime." Thus, unless followed by a proportionate loss of representation, we should not have:

(1) Property or educational qualifications;
(2) Payment of poll tax;
(3) Requirement of residence for a term of years;
(4) Requirement of registration;
(5) Disfranchisement of paupers, idiots and insane.

Professor Burgess, in speaking of this penalizing second clause of the Fourteenth Amendment, says: "The Congress has not created the means and measures for carrying this threatened reduction of representation into execution, nor have the courts given judicial interpretation to the words of the clauses. We, therefore, do not know whether, in order to warrant the reduction of representation, denial or abridgment of the right to vote must be by a law of the Commonwealth, or by an officer of the Commonwealth, or whether the act of a combination of private persons, which the Commonwealth either cannot or will not control, would come within the meaning of the provision. The language is that whenever the right to vote is denied, etc. It does not designate by whom. In the previous section of the article it is expressly provided that the denials, deprivations and abridgments there spoken of, must be made by the Common-
wealth in order to warrant the interference of the government of the United States in behalf of the person receiving the injury. What does the omission of this phrase in the second section indicate? Is it fortuitous, or was it intended to make the Commonwealth responsible in this case for the unlawful acts of its citizens? Sound political science would approve the latter interpretation; but we must await the legislation of Congress and, after that, the final adjudication of a case in point by the Supreme Court, before we can pronounce this to be the settled principle of our public law."

(2) There is excellent authority for the belief that the Fifteenth Amendment abrogates and supersedes Section 2 of the Fourteenth Amendment, for it distinctly prohibits exclusion from the suffrage on account of race, color, and previous condition of servitude.

Hon. James G. Blaine, who was largely instrumental in the shaping and adoption of the post-bellum amendment, says: "When, therefore, the nation, by subsequent change in its constitution, declared that the State shall not exclude the negro from the right of suffrage, it neutralized and surrendered the contingent right before held, to exclude him from the basis of apportionment. Congress is thus plainly deprived by the Fifteenth Amendment of certain powers over representation in the South, which it previously possessed under the provisions of the Fourteenth Amendment. Before the adoption of the Fifteenth Amendment, if a State should exclude the negro from suffrage, the next step would be for Congress to exclude the negro from the basis of apportionment. After the adoption of the Fifteenth Amendment, if a State should exclude the negro from suffrage, the next step would be for the Supreme Court to declare that the act was unconstitutional, and, therefore, null and void. The essential and inestimable value of the Fourteenth Amendment still remains in the three other sections, and pre-eminently in the first section."

Congress cannot enforce the penalty for disfranchisement provided for in Section 2 of the Fourteenth Amendment. The Fifteenth Amendment supersedes the Fourteenth. The Fifteenth Amendment distinctly prohibits disfranchisement on account of race, color, etc. The Fourteenth permitted this with a penalty. Therefore any disfranchisement on account of race, color, etc., would be contrary to the Fifteenth Amendment, and consequently void. If void, how could it form the basis for reduction in representation? To enforce the second clause of the Fourteenth Amendment would require the repeal of the Fifteenth Amendment. The repeal of the Fifteenth Amendment would leave

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the question of suffrage where the Constitution originally placed it, to wit, in the hands of the several States. It would then be entirely discretionary for the State to give suffrage to the negroes if it chooses, just as it can give it to women if it chooses. If the negro were not permitted to exercise the special privilege of suffrage, it would in no way deprive him of his civil rights which he enjoys the same as women. Having the ballot thrust upon him without the proper intellectual and moral training, the negro has come to believe that he is not only on the same political equality but also social equality with the whites.

Edgar G. Murphy, an intelligent exponent of Southern sentiment, writes: "The North may punish the white man, but the retort of the white man falls too often upon the negro. The negro is upon the line of the crossfire between the sections. The Federal Government may be solicitous as to his vote, but the negro needs the daily and neighborly solicitude of those who offer opportunities of labor, possibilities of bread. The North, especially the negro of the North, may wish to strike at the South, but the Southern negro, knowing that he must live with the Southern white man, rightfully feels no cowardice in the confession that a privilege accorded voluntarily by the South is worth more than any conceivable privilege that might be imposed externally by the North. The latter is but a temporary and exotic bauble. The former is a fact to rest in. What it is, it is. Because its basis lies rooted in the common consent of the whole people it is a social and political reality." And further, "The white voter who under our own laws remains unqualified, should be excluded in his own interest and in the interest of the State. The qualified negro—qualified by our own tests and under our own laws—should be fairly registered without evasion or postponement * * * I profoundly disbelieve in any social admixture or amalgamation of the races, but I confess that, in a certain high civic sense, I am glad that I can hold in honor the negro man who, after only forty years of freedom, is able fairly to stand upon his feet before the white man's law and take the white man's test. The registration of such a man is a security rather than a peril to every sound and legitimate interest of the State. That the South recognizes his presence and accepts the credentials which he offers is evident from the fact that tens of thousands of such men have been accepted as registered voters under our amended Constitutions."

When Northern capital began to pour into the South for investment, we were more inclined, as the embers of war died out, to treat rationally with one another. When a foreign war called

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the nation to arms, and two commanding generals of the Con-
ederate army doffed the gray and donned the blue, and the
sturdy sons of the South touched elbows with the Yankee boys
in marching to the defense of the Stars and Stripes, all sec-
ctionalism was cast aside and the people once more united. As
a direct result of this feeling, we are more inclined to meet the
Southerner with wider sympathy and consideration.

With our more intimate relationship in sentiment with the
South; with our interest in the industrial development of South-
eren resources, greater opportunity has been afforded for a close
range study of the Southern problem.

We, of the North, have been wont to study the negro at a
distance, without becoming familiar with his traits and charac-
teristics, while the Southerners were born and bred in his very
midst, and understood his defects and peculiarities of disposition
and tendency.

It is one of the large truths of history that the superior race
will always dominate. The English do in Africa and India. In
our own experience, the American dominates the Indian and the
Chinese. Would we be ready to condemn the native-born popu-
lation of Massachusetts for refusing to submit to domination
by her foreign-born illiterates, or California for disfranchising\(^1\)
the 45,754\(^2\) Chinese within her borders? If not, can we in jus-
tice criticize the South for refusing to submit to negro domina-
tion? Wherever the intermingling of the races is frowned down
assimilation cannot take place. Consequently one race must be
supreme; and the inferior can never hope to occupy a plane of
social and political equality with its superior.

There is a growing sentiment in the North, a sentiment prac-
tically predominant to-day, that the granting of suffrage to the
ex-slaves at the close of the Civil War was a grave political
mistake. Placing the ballot in the hands of the black man, ab-
solutely ignorant and uncultured, jeopardized the rights of the
whites, and made possible the wanton waste and extravagance
that followed this political expedient.

Mr. William D. Guthrie, one of the leaders of the New York
Bar, says: "The conduct of the unreconciled and irreconcilable
portion of the population of the South compelled the enfranchise-
ment of the negro, as apparently necessary for his protection.
The result, we must confess, has been extremely disappointing;
and we look to the future with great apprehension. The en-
franchisement of the colored race at that time was a political
mistake, even in the best interest of the race itself. Enfran-
chisement under the Fourteenth Amendment would have come
in time, and the very dangerous feature of the race feuds in the

\(^1\) State Constitution of California, Article II, Section 1.
\(^2\) Census of 1900.
South during the last thirty years and still existing would have been avoided."

President Hadley, of Yale, maintains that: "The colored race was given freedom and the ballot with a rapidity which even the French nation did not parallel. A corrupt government followed after the negro, allowed the use of his vote, sold it to unscrupulous persons of his own race and to adventurers from the North. It was not the fault of the negro. It was the fault of those who gave him the ballot without previous preparation. * * * When the North recognized the condition which prevailed in the South it acquiesced in the suppression of the negro vote."

In a speech at Atlanta, Ga., May 10, 1903, Rev. Dr. Parkhurst asserted that, "granting suffrage to the negro was a great mistake," and that "the authors of the Fifteenth Amendment believed that altering the colored man's political status would alter his moral and intellectual nature. They might as well have assumed that substituting a coat and trousers for swaddling clothes would make an infant a man, or letting a wolf out of a cage would domesticate him."

Although Northern sentiment has been veering toward the Southern viewpoint, it was, nevertheless, startling to read that Elihu Root, at a dinner of the Union League Club, had said: "I fear that we are compelled to face the conclusion that the experiment (negro suffrage) has failed."

CHAPTER XI.

THE SOUTHERN VIEWPOINT.

As Americans, we are all interested in any problem that directly affects the welfare of our country. This problem, in its essence, is peculiarly a Southern problem, and the Southern people should be accorded a fair hearing, before judgment is passed upon their efforts at its solution.

The following letter was sent to a number of representative leaders of the South.

N. Y., March 22, 1905.

Dear Sir:—

For some time, I have been engaged in making a thorough investigation of the suffrage question as it presents itself in the Fourteenth Amendment to the United States Constitution.

1 Fourteenth Amendment, by William D. Guthrie.
3 February 6, 1903.
My sources of information have been largely newspapers, books, magazines, law reports and observations made while on several tours of the Southern States.

May I ask you, as an authority on the subject, the following questions?

(1) Is the franchise clause of the Fourteenth Amendment enforceable in the Southern States to-day? If not, why not?

(2) Would the Southern people be willing to have their representation reduced if the negroes were disfranchised?

(3) Would the Southern people be willing to give the negroes equal privileges, if the negroes were as well educated as the whites?

(4) Are the recent Southern State Constitutions (containing the grandfather clause) constitutional? If so, upon what ground?

(5) What remedy would you suggest for existing conditions if you find them unsatisfactory?

Thanking you for any courtesy you may extend to me, I am,

Very truly yours,

JAMES A. HAMILTON.

Some of the replies are a little exasperating, but, on the whole, the Southern point of view is clearly and frankly stated, and all are worthy of careful perusal.

SUPREME COURT
of the
STATE OF ARKANSAS.
Little Rock, April 8, 1905.

Mr. JAMES A. HAMILTON,
New York City, N. Y.

Dear Sir:—

Your letter of March 24 has been before me for some time. I thought at first that I would give full answers to your questions, but on reflection I see that your questions assume facts which do not exist and I have concluded that we are not on common ground to deal with this question, and no good could result from a discussion based on mistaken premises.

Yours truly,

Jos. M. HILL,
Chief Justice.

UNITED STATES SENATE.
Brandon, Miss., March 27, 1905.

Mr. JAMES A. HAMILTON,
New York, N. Y.

Dear Sir:—

Yours of the 23rd, asking me for information in reference to the negroes, is received. It is impossible for you
to understand thoroughly the negro situation without coming South where most of them live. The white race is the supreme race of the world. The negro race is an inferior race. Whenever you thoroughly understand these two propositions you then understand the question about which you contemplate writing.

Respectfully,

A. J. McLaurin.

UNITED STATES SENATE,
WASHINGTON, D. C.
March 31, 1905.

JAMES A. HAMILTON, Esq.,
448 West 44th St.,
New York, N. Y.

My Dear Sir:

My opinion has been for some time that the Fifteenth Amendment overrides and displaces the Fourteenth in some respects, making all disfranchisements constitutional which do not themselves override the conditions as to race, color or servitude, and fixing no penalty to any test of suffrage that is constitutional. I regret that I have not time for any extensive discussion, but I will send you soon when I go to Lynchburg, where I live, a pamphlet about the New Constitution of Virginia, which treats the matter in some aspects.

Very truly yours,

JNO. W. DANIEL.

P. S.—Let me call your attention to the Republican Platform of last year on which Mr. Roosevelt was nominated. That seemed to construe the matter this way.

ISIDOR RAYNER,
Attorney-at-Law,
Rayner Building, Baltimore, Md.
March 24, 1905.

JAMES A. HAMILTON, Esq.,
448 West 44th Street,
New York, N. Y.

Dear Sir:

The second, third, and fifth questions in your letter I cannot answer. There is, I suppose, a conflict of views in reference thereto. I cannot exactly understand your first question because the Fourteenth Amendment can be enforced by Congress. In reference to the fourth question, I am inclined to think according to the Supreme Court decisions that the State Constitutions are constitutional. It has been frequently held that each State has a right to regulate the suffrages of its own citizens. Of course, this regulation must not be in violation of the
Fourteenth and Fifteenth Amendments, but if you will observe these constitutions do not disfranchise on account of race or color, but simply furnish an educational test which operates on all classes alike.

Very truly yours,

Isidor Rayner.

UNITED STATES SENATE.

Trenton, S. C., March 26, 1905.

Mr. James A. Hamilton,
New York.

Dear Sir:—

I have your letter of March 23. I can not go at length into the reasons for the answers I shall give to your inquiries, but will answer them categorically, and send you a speech I made in the United States Senate in 1903, and by reading that you will probably get as good insight into the question from my point of view as is possible. Later on when I am more at leisure, if you will present some reasons yourself in support of the Northern view of the subject, I may feel willing and able to show you why the South can not accede to it. Now for your questions.

To the first I answer No for the simple reason that white men will never be governed by negroes anywhere.

To the second I answer No because it would be unjust; but we would prefer no representation at all rather than submit to negro rule. In the original compact the South received representation, fractional, of course, for its slaves. The North has a very large element of ignorant foreigners who are in no sense Americans, yet they are counted in apportioning its representation.

To the third I answer No, education has nothing to do with it. It is a question of race prejudice and caste feeling that has existed since the world began.

Fourth, I am no lawyer, but I do not think they are if we consider the Fourteenth and Fifteenth Amendments themselves constitutional.

Fifth, I have no remedy, but I know the whites will govern regardless of consequences.

Yours very truly,

B. R. Tillman.

Carrollton, Miss, March 28, 1905.

Mr. James A. Hamilton,
Dear Sir:—

Your letter of March 23rd received and returned herewith for your convenience.

(1) Not enforceable, because there has been no violation. Ac-
cording to Cooley and common sense there is no denial or abridg-
ment of the right to vote of any adult male by the Constitution
or law of any Southern State, as no qualification for voting is
prescribed which cannot be attained by the adult male.

(2) They would not.

(3) Education does not capacitate a negro for government. Educa-
tion in Santo Domingo and Haitai is both gratuitous and
obligatory, yet not the slightest capacity for government has been
conferred by education. The same can be said of all the West
India Islands where the blacks are all educated and are as in-
competent for civilized government as a tribe on the Zambesi.

(4) They are. For reasons consult decision of Supreme Court
(United States) in the Alabama Case. (Note: The burden of
proof of unconstitutionality is upon those who attack these con-
stitutions. The constitution of a State is presumed to be in
accordance with the Constitution of the United States.)

(5) The United States must absolutely remove the negro from
any share whatever in the government and make him a strictly
dependent race. Children are strictly dependent with no voice
in government and on that account are more protected than any
other of our citizens.

In the session of 1899-1900 I spoke in favor of the constitu-
tionality of the amendments to the constitution of North Caro-
lina submitted by the legislature for ratification by the people at
the election of 1900 (November). Inter alios—I made an argu-
ment on the grandfather clause. I would send you a copy but
cannot find one here. I send you copy on race question made
two years ago. I am,

Very truly yours,

H. D. Money.

SUPREME COURT
of the
STATE OF FLORIDA.
Tallahassee, Fla., May 13, 1905.

MR. JAMES A. HAMILTON,
448 West 44th St.,
New York, N. Y.

Dear Sir:—

Because of press of official business I have been
compelled to delay until now my answer to yours of March 24th.
Permit me in the outset of my reply to say that the sources of
information that you say you have thus far been pursuing, viz.: “news-
papers, books and magazines,” in your investigation of
the negro suffrage and kindred questions are wholly unreliable,
and are nothing more than the conclusions drawn by sentimental
theorists from false premises originating largely in distempered
imaginations. The only reliable way to get at the truth and justice of the opposition of the South to anything and everything that leads to equality, either socially or politically, between the two races, is for the seeker after such truth and justice to come down here and put himself in daily contact with the negro, loan him money, hire his services in any capacity, shower kindnesses upon him, enter into contracts with him of all kinds, and, my word for it, that six months of such contact will convince anyone, as it has already convinced thousands from the North who have settled here, that it will require five centuries at least of the most careful coddling to fit the negro for anything like equality with the Caucasian in governmental or social affairs. Such contact will convince even a William Lloyd Garrison or a Thad Stevens that the enfranchisement of the negro at the time that it was done was "the crime of the nation," as it is aptly expressed by Mr. Hubert Howe Bancroft, in his book called "The New Pacific," written a few years ago. You will find in that book a chapter on the "Race Problems" that comes nearer the truth as to the true character and status of the negro than anything I've seen in print, and it should be convincing as its author was an abolitionist of the abolitionists. He came South and studied the problem at short range, which is the only way to arrive at the truth. I will now proceed to answer your questions categorically.

First. For some years after the overthrow of the so-called carpet-bag governments in the South all manner of expedients were adopted to secure the supremacy of the Caucasian over the African in governmental affairs, and to convince the latter that the former was his dominant superior, governmentally, at least. During this transition period I think it truthful to say that the franchise clause of the Fourteenth Amendment was not enforceable in the South, or was skillfully evaded. After a few years of white man's rule, when the mind of the negro became thoroughly disabused of the false doctrine with which it had been imbued by his irresponsible and reckless associate, the carpet-bagger, to the effect that he was the white man's superior, such expedients and evasions became unnecessary. The negro has become thoroughly convinced that the white man is here to stay, that in point of fact, whether it be true or not, in sentiment and theory, the white man is his superior at least in the ability to get hold of and to hang on to the lines of government, and that it is no longer any use for him to kick against the pricks. The result is that he scarcely knows when election day comes around, and none but the idlest loiterers among them ever go about a voting place. Those who go are perfectly free to vote as they please and their votes are counted as cast. So that I may say that the franchise clause of the Fourteenth Amendment is en-
forceable and is as much observed in Florida, at least, as it is in any New England State.

I believe that the majority of the white people of the South, in order to be forever rid of the ever present menace of the negro in politics, would gladly exchange a reduction in Congressional representation for disfranchisement of the African.

At the South the rights of the negro to personal liberty, freedom of speech, freedom of religion, all property rights, freedom to engage in any of the pursuits or professions of life are as fully secured to him as to any white man, and he is as fully protected in all these by the laws as is any white man, but the Southern white men do not now and will never submit to anything that even squints at social or political equality between the races no matter to what extent the negro may be educated in book learning, and why? Because so far all the millions that have been spent upon his education has produced nothing but a coat of whitewash, beneath which still exists the negro in all his aboriginal depravity. It is like going to the jungles of Africa and teaching a man-eating tiger the manufacture and use of smokeless powder and the long-range rifle. He remains a ferocious tiger still, but far more dangerous from his educational acquirements. We Southern people know, and as all Northern people would quickly learn if they came in daily contact with the negro, that the great defect with the whole scheme of negro education lies in the fact that it is sought to be applied from the top downwards, instead of being commenced at the bottom and carried upwards. In other words their heads are being crammed with book learning while their hearts and morals are wholly neglected and left in the slough of aboriginal depravity and barbarism. He has no home training in his youth, except that it is right and proper to despoil the whites upon any and all occasions and in any and all ways—and that there is no sin in it except in the mishap of getting caught. He is filthy in person, habits, instincts and morals, and is utterly devoid of any of the instincts of morality, gratitude, truth or honesty, and seems to be incapable of comprehending the meaning of the word reputation or the value of a reputation for anything. He regards the white man as his natural enemy to be despoiled upon any occasion when it can be done with impunity, and he is so taught around his fireside, from pulpits and in his secret lodges. The unpardonable sin among them is for one of their number to disclose the misdeeds of one of their race when a white man or his rights are involved. He will not submit to be taught or preached to by white teachers or preachers, thereby shutting out all chance for enlightenment in civilized morals. His education, therefore, has resulted only in making him more depraved because more enlightened. His conception of the use and value of an education
is that it is designed to relieve him from earning his bread by
the sweat of his brow, and that instead he must dig it out of his
or her wits by whoredom, gambling, forgery, mountebankism
and enlightened rascality generally. This is borne out from the
fact that the official statistics will show that in those localities
at the North as well as at the South where the percentage of
education among the negroes is greatest the percentage of crime
among them is highest, and the reverse, that where the percent-
age of education among them is lowest, the percentage of crime
is lowest. For these reasons our people will never consent to a
social and political equality with him, and because the more he
is taught from books, the worse animal does it make him.

The only remedy that I can conceive of is to radically retrace
our steps and undo what Mr. Bancroft terms "the crime of the
nation" by disfranchising him and then establish some practical
system of compulsory (if necessary) early moral training for the
children of the race, thereby commencing his education at the
bottom instead of at the top.

We have in Florida no "grandfather" clause or other consti-
tutional dodge to evade negro suffrage, as we have never found
it necessary—therefore I have never given the constitutionality
of such a provision any investigation. I realize that my arraign-
ment of the negro herein is seemingly severe, and I hope that
you will not conclude that it has been prompted by prejudice, as
my feelings toward him are those only of forbearance, pity and
kindliness, but that you will, to verify its truth or falsity, in the
the language of the Scriptures, "come and see," and you will
quickly lose all the beclouding influences of sentiment and theory,
and will conclude, with the hundreds who have come and have
seen, that what I have told is but the half of the truth.

Very respectfully yours,

R. F. TAYLOR.
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