ANDREW JOHNSON, THE MISUNDERSTOOD

by

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Andrew Hohnson, the seventeenth President, of the United States, was born of "Poor White" parentage at Raleigh, North Carolina, the twenty-ninth of December, 1808. His father lived only four years agter Andrew's birth, and left no funds with which to educate the boy. Johnson's boyhood was spent in the densest ignorance and it was not untiÌ he was enterting manhood that he so much as learned to read.

After serving ten years as an apprentice in a tailor shop, he started out for himself, as a traveling tailor. He crossed the mountains to Greenville in east Tennessee, where he presently married Eliza McCardle, a capable and ambitious woman, who besides making him a constant home taught him to write, and read to him while he was at work. Unpromising as was his origin, Johnson possessed a natural genius for politics.

When he was twenty years old, Johnson organized a party of workingmen in opposition to the planters. The workingmen chose him alderman that year and reelected him in the two succeeding years. In 1830, Johnson was elected mayor, serving for three years. To qualify himself for public undertakings, he joined a debating society. From this time on he made progress in political affairs of the State and Nation, first taking an active part in advocating a new constitution for the State greatly limiting the power of the Õarge land owners.

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In 1835, he nominated himself for the Assembly, declaring himself a Democrat. He was successful in the ensuing eledtion, and was defeated in the third election because of his opposition to a certain financial measure. However, it was later proven that he had rightly judged this measure. He was again chosen a member of the Legislature and served through the session. The next year he was elected to the State senate, later he was elected a member of Congress, in which he secured four consecutive reelections. While in the House he supported the Annexation of Texas, the Mexican War, the Tariff of 1846, and the Compromise of 1850. He favored the acceptance of the forty-ninth degree of latitude to settle the Oregon boundary diapute, and was one of the foremostaadvocates of the homestead law.

In 1857, he was elected to the United States Senate, He opposed the increase of the army and the legislation for the Pacific Railroad. Johnson said little about slavery only to discourage all agitation on the question, his main interest being centered on the preservation of the Union. In the campaign of 1860, after being himself mentioned for the nomination, he supported Bredkenridge until he found that secession was contemplated, then he repudiated Breckenridge. When he went home in 1861, after opposing secession in the Senate he was in great danger of his life. He worked hard for the Union's cause and at one time the secessionists turned his family out of their home. Early in March 1862, Johnson was made military Governor of Tennessee. For a long time he labored earnestly to bring

his state back into the Union. Near the beginning of March, 1864, under Johnson's orders, Tennessee elected officers, both State and local.

Three months later Johnson was nominated for Vice-President on the ticket with Lincoln, and six weeks after the inauguration Lincoln was shot, and Johnson became president.

Unfortunately for himself, Johnson was intoxicated when he was sworn in for Vice-President. This created a prejudice far and wide, and could never be forgotten through the years of his higher exaltation, yet he never again offended the public in such a manner, so far as historians have found out.

Andrew Johnson was quietly sworn into office on the forenoon of the fifteenth of April, 1865, at the Kirkwood House where he boarded. The day was gloomy and threatening. The body of the martyred President had just been borne to the White House. And to this sudden successor the oath of office was administered by Chief Justice Chase in the presence of the cabinet and a few Senators. Johnson showed great grief for his deceased fellow man and realized the tremendous responsibilities that had so duddenly been shifted upon him. "The duties are mine," he said with sincere emotion; "I will perform them, trusting in God for the consequence."

Johnson met in conference with his predecessor's cabinet next day. He asked each and all of the members to continue in their offices and give him that combined support of which he felt the need in performing the work that he was called upon to

do. Secretary Wells describes this executive in cabinet intercourse, as a willing listener, receiving information and suggestions from his advisers and taking their opinions upon important questions; with only the fault of being too secretive anduncommunicative, and, as perhapd his gravest political error, failing tp inspire, with a frank and free confidence, willing friends at the other end of the avenue, who might speak and work better on his behalf in House and Senate, when fully authorized by him to do so.

President Johnson brought over from the previous administration all the cabinet counselors. These included three noteble secretaries, each of whom served him faithfully until the last; Seward of the State Department; Wells of the Navy Department; McCullough of the Treasury. Stanton, the Secretary of War made a fourth, but he did not show the same loyalty to his superior or remain undisturbed at his post as did the rest of these men.

Wells showed a sympathetic accord with President Johnson. Both viewed past politics alike, each was an honest, upright and patriotic citizen, conservative by temperament, combative if need be, and figed in his prepossessions. Each had the same feeling toward the prostrate Southerners of their own race and neither cared a great deal for the aberage negro just set free. History shows that under Johnson's administration, Wells felt bold and confident of his ground, and that in cabinet conferences it was he, of all advisers, who nerved the President most

strongly to maintain his ground against a House and a Senate disposed to usurp all the functions of government and renew a military reconstruction in the South, regardless of the Commander-in-Chief of army and navy designated by the Constitution.

Andrew Johnson endeavored to reconstruct the shatteredUUnion substantially on the lines which Lincoln had laid down. He imposed three conditions on the lade Confederate States which they must comply with before they should be entitled to representation in Congress. These were: the repeal of their ordinances of Secession; the abolition of slavery by their conventions; and the ratification of the Thirteenth Amendment by their legislatures; and the entire repudiation of their State debt incurred in the prosecution of the War. These conditions were with slight exceptions complied with, And it seemed to Johnson that on the assemblage of Congress, December 1865, the Representatives and Senators of the Southern States should be admitted to their seats in the House and Senate. But due to the present Congress which proposed to have a hand in this important work, the Southern States could not yet be represented.

Congress worked through a joint Committee on Reconstruction and the Committee on Judiciary. They constructed a policy of their own imposing still another condition on the Southern States They passed a law conferring full rights on the negro and widened the scope of the Freedman's Bureau. They adopted the Fourteenth Amendment and required the Southern States to ratify it before

they should be restored to their old place in the Union.

President Johnson vetoed the first Freedman's Bureau Bill, February 19, 1866, and later the Civil Right Bill, and thereby became involved in a quarrel with Congress which was intensifed by vituperative speeches from himself and Thaddeus H. Stevens, t the leader of the House of Representatives. The vetoes were sanctioned by Wells in every instance. In his own eyes political expediency weighed by little when principles seemed to be at stake. When Congress adjourned in July 1866, the executive and legislative departments of the nation were at dagger points. Both appealed to the country for endorsement. Johnson might have been less criticized and had a better chance of securing a third of the votes of the House of Representatives had he not gone out and toured the country making speeches that caused him to be thoroughly discredited in the north. If he could have brought his mind to the acceptance of the country's verdict; if he had recommended to the Southern States the ratification of the Fourteenth Amendment, they would have, without a doubt, taken his advice and this would have been the basis of reconstruction. This would mean sacrifice of individual opinion, of self-love, but not sacrifice of principle.

President Johnson saw no reason why the Southern States should not have representation in Congress after they complied with the three conditions that Lincoln had laid down. Mr. Lincoln's plan had from the very beginning contained the principle that the work of Reconstruction was anexecutive problem. He re-

garded the rebellion against the United States within these Southern States as an act of disloyal persons and not as an act of the "States" at all. The disloyal people had done awaywwith the loyal government, but the states themselves were not disloyal, because they could not be, they were impersonal entities, incapable of of committing treason or any other wrong. Therefore it was the work of the Executive, through the power of pardon, to create a loyal class in a state "which" had been the scene of rebellion, and it was the work of the Executive to support that class by the military power in taking possession of, organizing, and operating the State Government.

Mr. Lincoln had undertaken to create such a class by construction an oath of future loyalty and allegiance to the United States, as follows:

#"I ______________________ do solemnly swear in the Presence of Almighty God, that I will henceforth faithfully support, protect and defend the Constitution of the United States, and the Union of the States thereunder; and that I will in like manner abide by and faithfully support all acts of the Congress passed during the existing rebellion with reference to slaves, so long and so far as not repealed, modified or held void, by Congress or by the decision of the Supreme Court. And I will in like manner faithfully support all proclamations of the President during the existing rebellion having reference to slaves, so long and so far as not modified by the Supreme Court. So help me God."

He then undertood to put this class who voluntarily took the oath in [illegible] of the functions and powers of [illegible] State governments"

Reconstmmction and the Constitution, Burgess, Page 10

the oath in possession of the functions and powers of the "loyal state governments" proclaiming and declaring, that whenever in any of the States as Arkansas, Texas, Louisiana, Mississippi, Tennesseess, Alabama, Georgia, Florida, South Carolina, and North Carolina a number of persons not less than one-tenth in number of the votes cast in such states at the Presidential election of the year 1860, each having taken the aforesaid oath and not having since violated it, should re-establish a state government, and such a government should be recognised as the true Government of the state, and the State should therefore receive the b benefits of the constitutional provision which declares that: #" The United States shall guarantee to every State in the Union a republican form of government and shall protect each of them against Invasion; and, on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence."

Mr. Lincoln did not say in his proclamation; whether any members sent to Congress by any of these States would be admitted, but he certainly did not think the House would constitutionally their power of judging the qualifications and elections of their members to keep members from "States" reconstructed upon his plan from taking their seats on the ground that these States had not veen properly reconstructed.

Congress thought however, that the reconstruction was a legislative problem, a problem to be solved by Congressional acts and constitutional amendments. This was evident when neither

Constitution of United States, Article IV, Section IV

House would admit representatives from Arkansas elected under the new "State" organization. And the House manifested from the start, that Reconstruction could not be effected by the Executive Department of the government, but that it was a problem for Congress, --and that this was a matter entirely separate from the power of each house, for the constitution says: #"Each house shall be the judge of the elections returns and and qualifications of its members, and a majority of each constitute a quorum to do business." In brief, the Reconstruction was a question of the admission of readmission of States into the Union.

President Johnson had little power as Executive of the United States with the Congress he had to work with (Radical Republican). Act after act concerning the South was passed over the President's veto.

The problem of the south were many; but the greatest problem seemed to be that of the free negro.

On the Third of March 1865, Congress passed an act organizing a bureau in the War Department for the care of refugees and freedmen. This bureauewas in charge of a chief commissioner who was assisted by commissioners for each of the "States" declared to be in insurrection. These officers were authorized to take possession of the abandoned lands within those "States" and other lands belonging to the United States and apportion out to each male refugee and freedman forty acres of land and to protect them in the tilling of this land for a period of three years.

Constitution of United States, Article I, Section V

#"This was of course a most humane measure for it would have been a crime to set the slave free and take him away from the support and protection of his master, and throw him out upon his own resources." But the way this measure was administered did almost as much harm as good, for, seeing that he was t o be furnished with food, clothing and shelter, the negro made no attempt to look for work. He became idle thus becoming a pauper or a criminal.

President Johnson knew the conditions that prevailed in the south, and his personal views on the negro question were extremely liberal. He was fair and open-minded. #"The Southern States," said the President, "are in the Union, which is one and indivisible. We must not be in too great a hurry with our reforms; it is better to let our Southern brethren reconstruct themselves in their several states than to force them." He wished to give the Southern people time to realize their situation after slavery had been abolished.

#"As to the political adversaries," said President Johnson, "the old Democratic party finds its old position untenable and has come to us; we ought to consider ourselves not worse off by that. Our United States Government is a grand and lofty structure which rest on the broad basis of popular rights. The elective franchise is not a natural right but a political one. I am not disposed on that point to interfere with the people of a state; if the people here go wrong we have an army, and can control by legislature too, but the Gerneral Government has no right to vote in a State. My

History of United States, Schouler, Chapter I, Pages 35-37

position here is different from what it would be if I were in Tennessee. There I would try to introduce negro suffrage gradually; (1) to those who have served in the army; (2) to those who can read and write; and perhaps (3) with a property qualification, to others with a capital of $200 or $250. It would not do to let the negroes have universal suffrage now; it would breed a war of races."

The newly reorganized States found that they had to pass legislation to prevent the whole negro race from becoming paupers and criminals, and laws were passed concerning apprenticeship, vagrancy, and civil rights--these laws were looked upon by the people of the north as an attempt to re-enslave. This of course was an extreme view, although they were not giving the negro equal civil rights with the white man, saying nothing of failing to offer him any prospect of ever participating in political functions. It couldn't be expected that the negro be given, at the moment of emancipation, equal civil rights with the white man,--for a civilized man can be safely intrusted with a much larger civil liberty than the barbarian or semi-barbarian.

The laws were not severe but were made to help the negro, to preserve him against idleness, drunkenness, and thievery.

Johnson was misjudged in regard to the negro question both wilfully and ignorantly. The radical leaders opposed him, because they thought they should, as he was of a different political party, and from the south; others opposed him through ignorance-- they did not know the circumstances, and they thought of Johnson as an obstinate, uninformed President, working only against measures that were taken to reconstruct the south. Johnson was inflexibly hon-

est both personally and politically. He and his cabinet stood for a conservative treatment of the whole Southern problem and moderate terms of reconstruction--a reconstruction that would benegit and aid the south; that would secure the good will and support of the Southern States.

A struggle at Washington with the radical faction which strove to control caused Johnson to send a message, contransted in spirit with that of congress--an attitude which said, #" Let us take counsel together; Iknow the South while you know the sentiments of the North." But Congress was in no mood for co-equal conference. They wanted the new President to be deferential and dependent. Johnson left it all for a time and toured the Northern States, "swinging around the circle" as he said. This tour was made for the purpose of a heart to heart talk with the voters of the Northern States. He had used this plan among his own people of the south, but this style failed to win the men of the North.

Johnson, back from his tour, awioted results of his canvas. But without a doubt his cause was defeated, and the election went om favpr pf Congress, with an increasing favir toward experimenting with the ballot on the Southern negro's behalf. Being at daggers point, Congress made little inquiry as th just what was to be done. Congress meant to rule with an iron hand. The proposed Fourteenth Amendment was remitted to the back ground as if by common consent, and the dispositon of the congressional majority was to impose terms for keeping the South's natural leaders out of influence, and delay southern re-admission. Congress worked

against the President and opposed him in every conceivable way. The radicals of the Republican party won and the conservatives were exhorted to coalesce with them.

President Johnson greatly injured his cause by the tour. If he had let some smooth--tongued speaker promote his policy, it would have been much better. However the defeat at the polls seemed to sober and steady him. He received letters of advice from friendly sources, asking him to use silence for the country's advantage. This advice he took, and his opening message to Congress was unexpectedly calm and dignified, though he still held that his plan of reconstruction was, in principle, the right one. #"He reargued his case from every point of view. He restated what had been done toward reconstruction, declaring that peace had been restored everywhere, and that all laws of the United States and all the machinery of the United States Government was in unimpeded operation through the length and breadth of the land, and loyal "State" governments had been restored everywhere, and lacked but one thing of completion and that was the admission of Representatives and Senators from ten of the eleven States in which ordinances of secession had been passed to seats in Congress. He contended that all departments of the United States Government had proceeded upon the view that the "States" were indestructible-- Congress, in the declaration, at first, that war was not waged in any spirit of oppression, for the purpose of conquest, nor for th purpose of overthrowing or interfering with right or established institutions of the "States" which were the scene of rebellion

#Reconstruction and the Constitution, Burgess, Chap IV, Page 105

but to defend and maintain the supremacy of the Constitution and all the laws made in pursuance thereof, and to preserve the Union, with all the dignity and equality and rights of the several States unimpaired, and in many other actsand resolutions; the Judiciary, in all proceedings affecting the reconstruction communities as "States"; and the Executive, in the entire plan of Reconstruction created by Mr. Lincoln and followed out by himself. He further contended that in recognizing these "States" as restored to their former relations, Congress was not running any risk of having disloyal men thrust into the legislative chambers of the nation, because each House of Congress could reject members-elect on account of disloyalty, and could continue to reject until the constituencies should send up such persons as the House could approve, and could expel any member whose conduct should reveal disloyalty. He therefore urged Congress to acknowledge the Reconstruction of the "States"lately in rebellion, in principle, and to apply the powers of the two Houses in regard to the election returns and qualifications of their respective members to the individual persons elected to seats.[7]

Again the words of the President proved ineffective. The recent election had tended to strengthen the radicals and weaken the conservatives, therefore Congress took the sentiment of the people to be; To ignore the President's work in reconstruction and develop a plan of its own, and base it upon a newly constructed electorate in the South, in which the lately emancipated should participate. They felt more and more that this

was necessary asthey began to recognize the attitude of the legislatures of the President's reconstructed "States" in regard to the Fourteenth Amendment. By the firs of January 1867, all of these Statesexcept three had rejected the Amendment and they followed later. This so angered the people of the North, because it was so generally believed that they had rejected the proposed Amendment under the advice of the President, that they were convinced that Reconstruction must be undertaken by Congress and must proceed upon the basid of a new electorate at the South which Congresss should create.

While Congress was working on the negro suffrage question, a bill was introduced and passed extending suffrage to negroes in the District of Columbia. The Republicans reasoned that they could not, with good grace, force negro suffrage on the South without establishing it in the District, also stating that the District was the best place to try the experiment. The President vetoed the bill and returned it to the Senate with his message.

The President sent a strong and convincing message. He did not dispute the right of Congress to establish negro suffrage in the District, for that was a constitutional right, but he simply argued that Congress stood in relation to the inhabitants of the District just as a legislature of a "State" stood in relation to the inhabitants of a State--that a State legislature would not act in oppositoon to the large majority vote in a state, so Congress should not act contrary to the large majority vote in the District. He then referred them to the votes taken in the Dis-

trict in December 1865---out of 6,556 only 35 were cast for negro suffrage. Showing these figures, and arguing that the District was no place to try such an experiment, he asked with all sincerity for Congress to reconsider the act.

Congress was in no frame of mind to listen to any counsel from the President. They passed the bill over his veto by the necessary two-thirds majority--the Senate on the seventh of January, 1867, and the House on the eithth of January---and negro suffrage was established.

Angered by the President's veto, the extremists introduced resolutions of impeachment into the House and a resolution for the appointment of a committee to inquire into reasons for impeachment. The committee sought in every way for grounds upon which to bring the President to the bar of the Senate, but temporarily they failed.

Extravagant tales of outrages against the negroes and loyal men of the South at the hands of the rebels were now ringing through the halls of Congress together with the news of the rejection of the proposed Fourteenth Amendment by the remaining three states(newly constructed states). Congress declared that these newly constructed states must except the Fourteenth Amendment before they would recognize their Senators and Representatives. While Congress had the right to judge the qualifications of each of its members, they did not have the right to make the acceptance of something not at the time a part of the Constitution a condition for the admission of the new states, or read-

mission of the old states into the Union. Also, Congress should not have submitted the proposed Fourteenth Amendment to bodies that were not conventions of the people in, or legislatures of, "States". Logically and Constitutionally the whole thing was irregular. As the states had refused to except the Fourteenth Amendment, Congress deemed it necessary to overturn all of the President's proceedings in Reconstruction, and began to work from the very bottom giving exclusive power to Congress to admit new states, and control territory of the Union in which loyal civil government did not exist.

The first step taken was the Reconstruction Bill which was presented from the Committee of fifteen on Reconstruction to the House of Representatives on the sixth of February, 1867 by Mr. Stevens. It was a thoroughly drastic measure. Instead of creating Territorial civil government in the usual manner, with an electorate designated by Congress, and withpowers under the control of Congress, and sustained by the molitary of the United States which would have been amply sufficient to meet all the real and proper exigencies of the case; it began by declaring that the pretended "State" governments of the so-called Confederate States did not protect, adequately, life and property, but countenanced and encouraged lawlessness and crime; and that it was necessary thatpeace and good order should be enforced in the so-called Confederate Stated until loyal governments could be legally established therein. It then went on to enact that the said so-called Confederate States should be divided into

five military divisions and made subject to the military authority of the United States, Virginia to constitute the first division, North Carolina and South Carolina the second, Georgia, Alabama and Florida the third, Mississippi and Arkansas the forth, and Louisiana and Texas the fifth; and the General of the army should assign an army officer of no less rank than a brigadier-general to the command of each of these divisions, and detail sufficient military forces, and place them under the command of each of the generals to enable him to enforce his authority in the district over which he was placed; that these commanders mitht use civil tribunals in the enforcement of the laws if they should see fit, but that, if these were not effective they might institute and govern through the military commissions; that no sentence of these commissions should be executed until approved by the commanding officer of the district; and finally, that the United States courts and judges should issue no writs of Habeas Corpus against the proceedings and judgments of these commissions.

The bill was so gotten up that there was not a line in the entire bill that could stand the test of the Constitution. First; No part of the United States Government can establish martialle law in any part of the territory of the United States only when and where there is armed resistance to the execution of the laws of the United States or some State" or territory whose jurisdiction is being defended by the Government of the United States-- such was not the case in the South. The Executive had proclaimed that such resistance had ceased everywhere several months before;

and he had appointed civil officers throughout the South for the execution of the laws of the United States, in many cases with the advice and consent of the Senate; that these laws were in operation every where; and that the United Stated courts were open everywhere and in the unhindered discharge of their functions and duties. It was not pretended, of course, that there was armed resistance to the execution of the laws but that the military force of the United States was to act simply in support of the state authority. There remained here and there military authorities of the United States on duty during a period ofi insurrection, but this was a very poor basis upon which to establish martial law throughout the length and breadth of the South.

The bill was indefensible by the Constitution in the second place because it attempted to rob the President of his office as commander-in-chief over all the armies. The bill took away this power of the President and vested it in the General of the army. It was easy to see that the bill eas directed as much against the powers of the President as against the late Confederates of the South.

In the third place, the bill assumed to suspend the writ of Habeas Corpus. The Constitution forbids this to be done by any part of the Government of the United Stated only in case of public danger. There eas no war in the South, consequently no public danger. No sane and just mind could see any reason for such a measure. The bill was the most absurd thing ever introduced into the Congress of the United States by a responsible Committee.

Never would it have been tolerated only at such a time as this when partisan excitement was keen, and when the Legislative bodies and the Executive were opposed to each other. Even under these conditions the bill could not pass as it was introduced. Many modifications were made; these, however, gave little evidence of good political science or sound constitutional law.

The Bill was opposed by the conservative Republicans. They were unable to accept the establishment of martial law for an indefinite period, and the usurpation of the President's constitutional prerogative of commander-in-chief of the army. It was soon known that the bill could not pass without a clause covering eht firs point and a change in provisions of the second point. Mr. Blaine prpposed an amendment, a promise that each of the ten communities now to be thrown into divisions could assume its proper place and position as a "State" of the Union when it adopted the Fourteenth Amendment. This question had been fought several times before and Mr. Stevens acted correctly when he declined to accept Mr/ Blaine's amendment or to allow a vote taken on it.

No amendment was made then and the chief thought was that no one Congress could bind another, that each Congress must be left at all times to its own discretion in the determination of every question. The House passed the bill as it came from the Committee without change or amendment and on the thirteenth of February it appeared in the Senate.

Here the bill came up before a more conservative and deliberate body of men. They regarded the bill as too radical. Amend-

ments were proposed by Senator Williams of Oregon and by Senator Johnson. The amendment was debated upon for some time, then laid aside by general consent and Senator Sherman was allowed to offer a substitute. Senator Sherman's substitute contained the gist of the Blainc amendment, and also charged the provision which proposed to deprive the President of his constitutional prerogative of commander-in-chief of the army. The bill still resting on a shaky foundation was passed by the Senate.

The bill was returned to the House for concurrence. The radical Republicans were very angry with the changed that had been made in the Senate. They claimed that the Senate proposed to bind future Congresses by pledges, also to use the rebel element of the population in the South in the work of Reconstruction of loyal "State" governments. After a long debate, the H House rejected the Senate's substitutes by a union of Democratic votes with the votes of the Radical Republicans. This result frightened the Republicans and they quickly came to an understanding among themselves in the House and with their colleagues in the Senate. The bill was passed, and on the twentieth of February it was placed in the hands of the President. It contained the following declarations ans provisions:

#"First, the preamble designated the ten communities reconstructed under the President's direction as the 'the rebel States of Virginia, North Carolina, South Carolina, Georgia,' and so on. Second, the preamble declared that no legal 'State' government or adequate protection for life or property existed in these 'rebel States'. It was therefore enacted that the 'said rebel States'

#Reconstruction and the Constitution, Burgess, Pp. 118, 119, 120

should be divided into five military districts, as previously described in the original bill; that the President should assign to the command of each of these an army officer of not lower rank than brigadier-general, and place under his command a sufficient force to enable him to perform his duties and execute his authority in his district; that these commanders should have the power to govern these districts by martial law in so far as, in their judgment, the reign of order and the preservation of the public peace might demand, under the limitations simply that 'all persons put under military arrest by virtue of this act shall be tried without unnecessary delay, and no cruel or unusual punishment be inflicted, and no sentence of any military commission or tribunal hereby authorized affecting the life or liberty of any person, shall be executed until it is approved by the officer in command of the district--and no sentence of death under the provisions of this act shall be carried into effect without the approval of the President.'

"Then came the provisions which offered the terms of escape from this new military regime. Thery were: first, the exercise of universal manhood suffrage, that is the suffrage of all male citizens, twenty-one years of age, without regard to race, color, or previous condition of servitude, who were not disfranchised for participation in rebellion or for felony at common law, and who has resided for one year in the so-called 'rebel State', in the election of delegates to a constitutional convention in the so-called 'rebel State'; second, the framinig of a 'State' consti-

tution by a convention composed of delegates so elected, and not disqualified by participation in rebellion or by the commission of felony, which constitution should vonform in all respects to the Constitution of the United States and which should contain, as a permanent principle, the same law of suffrage as that prescribed by this Act for the election of the delegates to the convention; third, the ratification of this constitution by a majority of the voters, as designated by the law of suffrage for the choice of delegates to the convention, voting upon the question of ratification; fourth, the approval by Congress of this constitution; and fifth, and last, the adoption of the proposed Fourteenth Amendment to the Constitution of the United States by the legislature created bys such adopted and approved 'State' constitution, and by a sufficient number of legislatures of other 'States' to make it a part of the Constitution of the United States."

The measure contained, in the last place, a sort of saving clause in regard to the existing civil governments which had been established in all these communities under the direction of the President, and which were not to be displaced. It had evidently occurred to the Republican leaders that they might have to make use of some of the machinery of the existing civil governments established under the direction of the President in these regions in execution their own plan of Reconstruction."

Along with this bill went another, the Tenure-of-Office bill. This also was introduced to limit the powers of the President. The bill eas introduced by Mr. Williams of Oregon on December 3, 1866, at the same time repealed the confiscation Act of July

17, 1862, which authorized the President to extend pardon and amnesty by proclamation to all persons participationg in the rebellion. The bill or resolution passed the Senate on the eighth of January 1867, and it was sent to the President. The President considered that Congress had neither the right to give not the right to take away his power of pardon secured to him by the Constitution. He simply pocketed the resolution and it became a law on the twenty-first of January.

Congress has its reasons for passing the Tenure-of-Office bill. During the experiences of the years 1865 and 1866, the Republicans feared that the President would use the great power ofdismissal from office in order to make the entire official system solid with himself on the the subject of Reconstruction, and toward the end of 1866 they suspected and asserted that he was dismissing officers from their positions on the ground of a diferimnce of opinion with himself on this subject, and they professed to believe that he would make a clean sweep of all such as soon as Congress should adjourn. There is no doubt that their ideas of the President and what he would do was greatly overdrawn by thepartisan feeling that existed, because the President was guided by Mr. Seward in all public affairs, and Seward was too conservative and diplomatic to take such steps.

The Tenure-pf-Office Bill, later declared unconstitutional by the Supreme Court, was, in short, a ban put on the President whereby he could not remove any officer without the advice and consent of the Senate. It even gave to his cabinet officers a

fixed tenure of four years. Here was a deliberate reversal of the constitutional practice of more than two generations. Mr. Madison had taken the ground that the President must have the power of removal in orger to secure the necessary obedience in his subondinates, and declared that the convention that framed the Constitution so understood and so intended it. The bill also contained the most stringent provisions for its enforcement. It made attempts of removal, appointment or employment of any officer contrary to the provisions of the act, punishable by a maximum fine of ten thousand dollars or a maximum imprisonment of five years--or both--at the discretion of the court. This bill reached the President the same day as the Reconstruction Bill.

President Johnson was not the man to decline such a challenge. He felt that the Republican chiefs were offering him an intentional personal insult as well as that the legislative department of the Government was attempting an unwarranted encroachment upon the constitutional prerogatiges of the Executive. After fighting the policy of Congress in matters purely legislative with caustic vehemence, vetoes and bitter condemnation, he was not likely to submit to have his very powers of administration stripped away without resistance carried to the utmost bounds. The vetoes of these bills were sent back to Congress on March 2. Johnson's message on these subjects was good political science and constituional interpretation. He ignored the personal injury intended by Congress and gave good convincing arguments as to why these bills should not pass.

At the same time the Reconsttuction bill and the Tenure-of-Office bill were vetoed, Congress passed a bill supplementary to the Reconstruction bill. It was in the nature of an adminsitrative measure for the purpose of carrying out the new plan of Reconsttuction. It ordered the commanding generals of the respective districts to have a registration of all male citizens twenty-one years of age or over before the following first of September, who were qualified as prescribed by the Reconstruction Act to vote for delegates toa a constitutional convention and who had taken the path asserting citizenship and residence and freedom from disfranchisemen on account of participation in rebellion or the commission of felony, and h d sworn that they never engaged in insurrection or rebellion against the United States, nor given aid or comfort to the enemies of the United States after having been members of Congress or of a "State" legislature, or officers of the United States or of a "State" of the Union, and that they would henceforth faithfully support the Constitution and obey the laws of the United States and encourage others to do do.

Congress was making ready for the veto, fot it passed a resolution in the Thirth-ninth Congress, ordering the Fortieth Congress to meet directly after the Thirty-ninth Congress closed. So the Fortieth Congress met on the Fourth of March instead of the first Monday in December.

The veto appeared on the twenty-third of March with a message from the President. He argued the unjustness of the oath that every person has required to sign before registration, # that he

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had not been disfranchised for participation in any rebellion or civil war against the United States." He declared that he would never approve of an election law whose plain and manifest purpose was to disfranchise a great body of respectable white people, and create a new electorate on the basis of universal suffrage. The President did not say, but he quite distinctly implied that the bill was unconstitutional. This bill would have been constitutional had the States been out of the "Union", but they were not amd they couldn't be. Congress was wrong when it considered these states as territories. And this act would be deemed unconstitutional by Article I, Section II of the Constitution of the United States. There is no doubt that a great wrong was committed when the new electorate was created for it was putting the white of the South under the domination of the negro race. It was dangerous to put this race of men at this time in possession of a State Government. It was only trusted that they would develop a political, legal civilisation which they did not have.

After the Reconstruction Acts had been passed over the President's vetoes, President Johnson promptly issued orders through the Adjutant-General's office, assigning generals over each of the military districts. These officers with their forces went at once to their respective stations, and the Government was put under Martial Law in each of these districts. No opposition was made on the part of the people. But the Generals soon found difficulty in the interpretation of the Reconstruction Acts, especially in respect to the oath required for enfranchisement. They

applied to the President for an interpretation of the Acts. President Johnson submitted their application to his Attorney-General and to his cabinet and on the twentieth of June the following instructions were sent:

"First: that the oath prescribed in the second Act defined all the qualifications required for suffrage, and that any person who could take that oath should have his name entered on the list of voters; that the boards of registration provided in that Act could not require any other, or any additional, oath from the person applying for registration, nor 'administer an oath to any other person touching the qualification of the applicant of the falsity of the oath taken,' but that the person taking the oath must be registered as a voter, and if it could afterward be proved that he had registered falsely he could be punished for perjury.

Second: That an unnaturalized alien could not take the oath but that a naturalized alien could, and that no other proof of naturalization could be required of him.

Third: That 'actual participation in rebellion or the actual commission of a felony' did not amount to disfranchisement, but there must be a competent authority declaring disfranchisement, or a judicial sentence inflicting it, and that no law of the United States had declared the penalty of disfranchisement for participating in rebellion alone.

Fourth: That a person who had engaged in rebellion, but had not theretofore held any office under a 'State' or the United States or not been a member of a 'State' legislature or of Congress,

and not taken, as such, an oath to support the Constitution of the United States, was not disqualified from voting.

Fifth: That persons who were militia officers in any 'State' prior to the rebellion were not disfranchised by participating in the rebellion.

Sixth: That 'an act to fix upon the person the offence of engaging in regellion under thisl law must be an overt and voluntary act, done with the intent of aiding or furthering the common unlawful purpose,' and that' a person forced into rebel service by conscription or under a paramount authority which he could nor safely disobey, and who would not have entered such service if left to the free exercise of his own will', was not disfranchised or disqualified from voting.

And Lastly: That disloyal sentiments, opinions or sympathies or anything said or written which fell short of an incitement to others to engage in rebellion, did not disfranchise or disqualify from voting."

We find Congress again fighting the President, for when the instruction of the twentieth of June became known, another bill was introduced into Congress and passed which put a Congressional interpretation upon the Reconstruction Acts. #"It declared that the true intent and meaning of these Acts was the civil governments then existing in the 'rebel States' of Virginia, North Carolina, etc., were not legal 'State Governments', and that, if there after they should be allowed to continue to exist at all, they must be subject, in all respects, to the will of the military commanders of the respective districts, and to the paramount authority

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of Congress; and it provided that the generals in command of the respective districts might suspend or remove any person from office under these illegal and pretended governments, and detail or appoint some other person to discharge the duties and exercise the powers said to pertain to such office. The acts of the district commanders in regard to these things were made subject to the disapproval of the General of the army, but not to that of the President, and stood until so disapproved. The same powers in regard to these matters were vested by this bill in the General of the army as in the district commanders, but were not accorded by it to the President; and it was made the duty of the General and of the district commanders to remove from such pretended offices 'all persons who were disloyal to the United States or who used their official influence in any manner to hinder, delay, prevent or obstruct the due and proper administration of the Reconstruction Acts.

The bill, furthermore, provided that boards of registration should have the power, and that it should be their duty, to ascertain the fact as to whether a person applying for registration as a voter was entitled to registration, under the Reconstruction Acts, and to refuse to register, if in their judgment he was not, and the fact that he was willing to take the oath prescribed in the Reconstruction Acts, or had taken it, was not conclusive upon the registration boards in making their inquiries and forming their decisions. And it, finally declared that the true intent and meaning of the oath prescribed in the Reconstruction Acts for persons who had held office under a 'State' government or member-

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ship in a 'State' legislature, before the rebellion, was that whether such persons were holding such positions at the time of the commencement of the rebellion or at some time prior to the same, and whether they had taken an oath to support the Constitution of the United States or not, they were disqualified from registration and were disfranchised, if, after holding such positions, they had 'engaged in insurrections or rebellion against the United States, or given aid or comfort to the enemies thereof'; and it gave to the commanders of the district the power to extend in their discretion, the time for completing the original registration of the voters, as provided for in the Reconstruction Acts, to October first following, and to the boards of registration the power, and imposed upon them the duty, to revise, during the first five of the last fourteen days before any election under the Reconstruction Acts, the registration lists and to strike off any name from said list which, in their judgment, ought not to be there, and required them to disregard any Executive pardon or amnesty as relieving the disability of any person for registration, if such person had committed any act which without such pardon or amnesty would disqualify him."

The bill passed both houses and was sent to the President on the fourteenth of July. Johnson returned it on the nineteenth with his veto, arguing that the new measure was not simply an interpretation of the Reconstruction Acts, but was in many respects a large advance upon them--extending the military authority in the South. He protested against the unfairness of the measure, laying

great stress upon the robbery of the constitutional power of the Executive. He said: "Whilst I hold the chief executive authority of the United States, whilst the obligation rests upon me to see that all laws are faithfully executed, I can never willingly surrender that trust or the powers given for its execution. I can never give my consent to be made responsible for the faithful execution of laws, and at the same time surrender that trust and the powers which accompany it to any other executive officer, high or low, or to any number of executive officers. If thise executive trust, vested by the Constitution in the President is to be taken from him and vested in a subordinate officer, the responsibility will be with Congress in clothing the subordinate with unconstititional power and with the officer who assumes its exercise."

The radical Republicans took this sppech of the President to mean that he intended to interfere with the execution of the Reconstruction Acts. Suspicions of various kinds crept out here and there. But to the unprejudiced mind no such ideas could be developed. Again the Presiden's veto was overridded by a large majority and Congress adjourned till the following November.

No sooner did Congress adjourn thanPresident Johnson planned to get rid of an unbearable person who had caused him trouble both directly and indirectly. Mr. Stanton, Secretary of War. Mr. Stanton became openly a partisan of the radical leaders in Congress and set himself to defeat the President at his own council table. From the very first, he administered the affairs of his Department as if he considered it an independent branch of the Government; he carried out the instructions of the President with regard to the South

in a way to discredit as much as possible the policy which they embodied; and seemed bent upon maintaining the Department of War as a sort of counterpoise to the Presidency itself until a man acceptable to the Republican majority in the House should come to the head of the Government. Mr. Johnson had wished from the first to be rid of Stanton, but he wished also to preserve the tradition of the policy handed on to him from Mr. Lincoln, and had hesitated to ask for his resignation. But now, so much discourtesy had been displayed that Johnson asked Stanton to resign. Stanton refused, feeling sure that he was supported by a large majority of Congress. The President could now suspend him without violating the provisions of the Tenure-of-Office Act, and on the twelfth of August, he sent an executive order to Stantons suspending him from the office of Secretary of War, and another to General Grant authorizing and empowering him to act as Secretary of War. Stanton yielded under protest, writing the President that he submitted only to superior physical force. Grant entered upon his duties at once. Stanton went on a trip to England for his health.

Plans were being made in some of the Southern States to prevent the execution of the Reconstruction Acts. Mississippi and Georgia especially resented them. W.L.Sharkey, the ex-provisional Governor of Mississippi undertook to obtain from the Supreme Court of the United States an injunction restraining the President of United States from carrying the Reconstruction Acts of March 1867 into effect. He was aided by other influential men of the State. A powerful argument from both sides followed. These talks were

noted especially for their clearness and frankness of speech. Mr. Stanbery, President Johnson's Attorney-General, proved that the President of the United States could not be made subject to the jurisdiction of any court, while in office, except only the Senate of the United States, as the constitutional court of impeachment. Mr. Stanbery also notified the Southerners that the Presidents opposition to these laws ceased with their successful passage over hisvetoes, and that the President intended to execute them to the last letter. The courts decision in this case was that "a bill praying an injunction against the execution of an act of Congress by the incumbent of the presidential office cannot be received whether it describes him as President or as a citizen of a State."

The Governor of Georgia, C.J.Jenkins, brought a similar case before the United States Court, an injunction to be obtained against Stanton. Mr. Stanbery again gave a very able argument against the jurisdiction of the courts over the question involved, and the courts again sustained him.

The decision of the Supreme Court left the way clear for the War Department, the Generals of the Army and the commanders of the five districts to enforce the Reconstruction Acts. Their main purpose was to substitute State governments based on negro enfranchisement and a considerable white disenfranchisement. They had till the first of October to complete the registration. All were required to take the iron-clad oath, before the registration and no one could truthfully take the oath who had voluntarily given sup-

port to the Confederate States during the rebellion. It seemed that legislation was an effective agency for enfranchising ignorance and dis-franchising intelligence. It provided that the most degraded negro could vote while Robert E. Lee, Wade Hampton, Alexander H. Stevens and other such men could not. But it was in exact line with the theory which prevailed in the Republican party. "Loyalty must govern what loyalty preserved." The Acts regarded the ignorant Congo negro a better citizen for the upbuildingof the new States than a man of the highest intelligence and the largest political experience who had sided with the Confederacy. This view was more partisan than patriotic. There was no doubt that the Reconstruction Acts subserved the interest of the Republican party. They were in power, they used this power, but the enthronement of ignorance in the South turned out seriously for the country at large. The theory of the legislation was as false as the practice was demoralizing. There was no doubt that Congress had the constitutional power to do this, on the theory of course, that the communities were not States of the Union. Any one with sound judgment could have foreseen the terrible results.

After registration was completed, arrangements were made for the holding of the election. The commanders did their best to get out the votes, polls were kept open several days. The military authorities tried in every eay to give the freedman a chance to vote. No doubt there was repeating in voting, but the officers tried to keep away fraud.

People who had registered and yet did not vote in the elec-

tion were men who were opposed to the Congressional Acts for Reconstruction. So the people who did the great part of the voting were the new enfranchised. Hence the men who were elected as delegates to the convention were in most part, Radicals. They were "Carpet-baggers", that is adventurers, poor-white trash, and negroe As an example of the outcome of such an absurdity, I give you South Carolina who had sixty-three negro delegates and thirty-four whites at the convention.. The American people were never before called to look upon such a hideous sight and such an injustice, as that now stormed the South.

The work of the conventions during the winter of 1867-68 was a disgrace to our government. It was conducted with the greatest extravagance and incompetence on every hand. Negroes were giben suffrage as the Reconstruction had provided, but they did not stop with this, but went so far as to disfranchise the whites.

The constitution which had been framed by this convention, must now come before the people for ratification. Registration was held the same as before, but more was made possible for fraudulent and unlawful voting, as General Pope issued orders that votes or persons registered in one precinct might be received in another, and State officers and legislators should be elected at the same time with the vote on ratification, and by the same voters. Such proceeding was a violation of law and had no right to exist. President Johnson recalled Pope and sent a more conservative man to his place.

A bill was introduced into Congress which authorized the election of State officers and legislators in the communities suffer-

ing Reconstruction at the same time that the vote should be taken upon the ratification of the new constitution and by thesame electors. This passed the House and had made good way in the Senate before the election had been held. Congress had no right to do this; never-the-less it was done. General Meade conducted the election as instructed, but the constitution was rejected in Alabama. Another bill was put before the House and Senate and passed, providing that the approval of a majority of those voting should be regarded as sufficient ratification of the proposed "State" constitution, no matter what the proportion of votes to the registration might be. This bill pased a month after the election in Alabama, but it was applied in that state as well as the others. The ratification of State Constitutions in Arkansas, North Carolina, South Carolina, Georgia, Florida and Louisiana followed soon after this bill passed.

At the same time the execution of the Reconstruction Acts was under way in the south, an investigation of the Executive Department was also under full sway. The suspension of Stanton from office August 12 was causing a great deal of comment.

President Johnson's message to Congress, December 3, 1867, said nothing about the suspension of Stanton, but his argument fell on the contitions of the South. He argued the repeal of such measures as the establishing of martial law in times of peace, which was alone for the purpose of establishims negro rule over the Southern communities. He urged the admission of the Representatives and Senators from these "States" as he called them to their

seats in Congress. President Johnson used some very convincing argument to promote his ideas, but the Congressmen were in no mood to except anything that President Johnson said. At the last of his message, President Johnson used some expressions which were very unfortunate, for they only aroused more hatred and a higher degree of suspicion against himself. He wrote: #" How far the duty of the President to preserve, protect and defend the Constitution requires him to go in opposing an unconstitutional act of Congress is a very serious and important matter, on which I have deliberated much, and felt extremely anxious to reach the proper condlusion. Where and act had been passed according to the forms of the Constitution by the supreme legislative authority and is regularlye enrolled among the public s statutes of the country, Executive resistance to it, especially in time of high party excitement, would be likely to produce v violent collision between the respective adherents of the two branches of the Government. This wouldimply civil war, and civil war, and civil war must be resorted to only as the last remedy for the worst of evils. A faithful and conscientious magistrate will concede very much to honest error, and sometime even to perverse malice, before he will endanger the public peace; and he not adopt forcible measures, or such as might lead to force, as long as those which are peaceable remain open to him or his constituents. It is true that cases may occur in which the Executive would be compelled to stand on his rights, and maintain them regardless of all consequenses. If Congress should pass

an act which is not only in palpable conflict with the Constitution but will certainly, if carried out, produce immediate and irrepable injury to the organic structure of the Government, and if there be neither judicial remedy for the wrong it inflicts nor power in the people to protect themselves without the official aid of their elected defender--if, for instance, the legislative department should pass an act even through all the forms of law to abolish a co-ordinate department of the Government--in such a case the President must take the high responsibility of his office and save the life of the nation at all hazards. 'The so-called Reconstruction Acts though as plainly unconstitutional as any thatcan be imagined, were not believed to be within the class last mentioned. The people were not wholly disarmed of the power of self-defense. In all the Northern States they still hold in their hand the sacred right of the ballot, and it was safe to believe that in duw time they would come to the rescue of their own institutions. It gives me pleasure to add that the appeal of our common canstutuents was not taken in vain, and that my confidence intheir widdom and virtue seems not to have been misplaced.'[8]

This last paragraph caused the already hostile Congressemen to interpret the message as a threat to violate the Reconstruction Act. and their attitude toward the President showed that of anger and determination to rule more than ever with an iron hand.

The Senate now took up the suspension of Stanton and at once passed a resolution, saying that the Senate did not concur in such suspension, although the President had sent a message to the Senate a few days after he delivered the annual message, explain-

ing the suspension of Stanton. President Johnson gave good reasons for his act. He stated that mutual confidence no longer existed between himself and Mr. Stanton. Stanton had ceased to work for or with him. His attitude was unendurable. Upon being asked to resign, Stanton replied, "That public consideration of a high character induced him to continue and not to resign at present. He intimated strongly in his reply that his reason for declining was his own lack of confidence in the President's patriotism and integrigy. This was, of course, and insult to the President. It was, in fact, official misconduct of a grave order. For these reasons and other, President Johnson suspended Stanton during the recesses of Congress.

The Senate had no ears for the President and they immediately instructed the Secretary to send copies of the resolution both to General Grant, who now occupied the position of Secretary of War and one to Stanton. Upon receiving the work, General Grant left the secretary's room at once. He locked the door after him and turned the keys over to the Adjutant-General and resumed his position as General of the army. Stanton regarded the matter in the same way. When he received the resolution he at once went to thesecretary's room and resumed his dutied as Secretary of War.

President Johnson was angered by the way General Grant gave possession of the office. He understood that Grant had promised him to hold on to the office in case the Senate should not approve Stanton's suspension, thereby compel Stanton to have recourse to the court to regain possession, and thus secure a judicial deter-

mination of the constitutionality of the Tenure-of-Office Act. The President made a serious mistake when he did not accept General Grant's explanation of the matter, instead of openly and rudely attempting to destroy his character before the public, thus making an enemy of a man that had been a worh while friend.

The President began to find himself in an unbearable situation, Executive of the United States, the Commander-in-Chief of the Army and Navy, virtually without power. Matters were certainly approaching a crisis, which could be avoided only by resignation of the President or a backing up of the Senate. If both stood firm the clash was sure to follow. On the twenty-first of February, the clash came. The President addressed an order to Mr. Stanton dismissing him from the office of Secretary of War, another order was addressed to General Lorenzo Thomas, Adjutant-General of the army, commanding him to take possession of the War Office. General Thomas went at once to take charge of the War Office, but Stanton refused to give it up. Upon taking the situation up with the President, Thomas was again instructed to go and take charge of the office and perform his duties.

The Senate, receiving such communication, at once passed the following resolution: #"Whereas, the Senate have received and considered the communication of the President stating that he has removed Edwin M. Stanton, Secretary of War, and has designated the Adjutant-General of the army to act as Secretary of War: Therefore . Resolved by the Senate of the United States, that under the Cons titution and laws of the United States, the President has no

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power to remove the Secretary of War and designate any other officer to perform the duties of that office."

This had no sooner been passed when Mr. Covode, a radical, presented a motion to the effect that Andrew Johnson be impeached of high crime and misdemeanors. This was given over to a Committee which was composed almost entirely of radical Republicans.

The Committee almost immediately reported back to the House, recommending that the resolution be passed, and Thaddeus Stevens asking that it might be passed without debate. However, a hot debate followed, and the House resolved to impeach the President before the Senate by a vote of 126 to 47--all voting in the affirmative were Republicans, and those voting in the negative were Democrats.

A Committee was appointed to draw up the articlus of Impeachment. Mr. Boutwell, Mr. Stevens, Mr. Bingham, Mr. Wilson, Mr. Logan, Mr. Julian and Mr. Ward, constituted this committee. On the twenty-ninth of February, they were ready to report with eleven articles, which were in short:

#"First, that he violated the Tenure-of-Office Act in issuing an order deposing Stanton from the office of Secretary of War, and another order appointing Thomas to the office of Secretary of War ad interim.

Second, that he violated the Anti-Conspiracy Act of July 31, 1861, in conspiring with Thomas toe expel Stanton by force from the War Office, and to seize upon the property and papers of the United States, and to unlawfully disburse the money appropriated for the military service and the Department of War.

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Third, that he violated the Act of March 2, 1867, which, among other things, directed that the military orders and instructions of the President and Secretary of War should be issued through the General of the army, by attempting to induce General Emory, the commander of the troops around Washington, to disregard this law and to take his orders immediately from the President.

Fourthly, that he committed high misdemeanors in his speeches denouncing the Thirty-Ninth Congress, and declaring it to be a Congress of only a part of the "States"."

These charges were put into the hands of the managers of the impeachment and on the fifth of March the Senate organized itself into a court of Impeachment, Each Senator taking the oath as a member of a court. The court directed the Sergeant-at arms to serve its summons upon the President to appear before its bar, and answer the charges prepared against him.

The President entered his appearance by his counsel, Stanbery, Curtis, Black, Evarts, Nelson, and asked for forty days in which to prepare for the answer, but the managers of the House objected to giving the President any time in which to answer the charges, but the Senate resolved to give him tendays. In ten days the answer was given, very satisfactory to the impartial mind but not to the House. They declared the President guilty of high crime and misdemeanor charged, and offered to prove the same.

On the thirtieth of March, the trial opened. The Senate chamber was crowdedwith spectators. The gallwry was a babel of

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conversation till the sergeant-at-arms rose and commanded silence. All Senators were in their places but one, the vacancy was filled by a man vacating the Vice-President's chair. Senator B.F. Wade, Vice-President and heir apparent to the Presidential chair, was to be one of Andrew Johnson's judges. This senator to my mind committed an offence, not only against good taste, but also against good morals and justice. This act in the very beginning of the trial cast a doubt upon the integrity of the court. Fifty-four Senators constituted the Jury; these senators represented twenty-seven states and forty million people. Chief Justice of the United States, the Honorable Salmon P. Chase was ushered into the Chamber and assumed the place of presiding officer.

The judge announced the counsel of the President and five men entered and seated themselves to the right of the Chief-Justice. Henry Stanbery, ex-Attorney-General of the United States, who had resigned his office to devote himself to the case at bar; was one; Judge Benjamin Curtis, ex-Justice of the Supreme Court, leader of the Massachusetts bar, and known throughout the country as one of the most distinguished jurists of his day was the second; a third was Judge Thomas Nelson, one of the ablest lawyers of Tennessee, a warm personal friend of the accused, who represented him in what might be termed his individual as distinguished from his official capacity, and who brought more personal feeling into the contest than any other of the President's counsel--Nelson's reputation in the profession was merely local; the fourth was William M.

M. Evarts, well known throughout his state, although at this time he was just entering his great career; and William Groesbeck of Cincinnati was the last of the President's counsel--a lawyer of grave and modest demeanor. As yet he was a stranger before the public, but before the trial was ended, he was known from one side of the country to the other. These men constituted the President's counsel; their quiet dignified, businesslike manner was very impressive.

As these men assumed their places, another proclamation was announced, "The Honorable Managers on behalf of the Representatives", and six men marched into the Chamber, two by two. Benjamin Butler, whose personal appearance would create an uncomfortable impression of cunningness and insincerity let the procession. Accompanying this pugnacious leader were five well-known Congressmen, active opponents of the President's policies. Of these Boutwell and Bingham were able lawyers, but neither Wilson nor Williams were lawyers of recognized ability, and John A. Logan the last of the prosecutors had no reputation at all in the courts.

The trial now began in earnest, after the minutes of the last session was read. Butler immediately rose and faced the Senate. Butler was an able speaker and his doctrine was that law was: "Anything plausibly presented and persistantly maintained". In the case at bar, however, there were practically no facts at issue, there were only points at law to be determined. The court was to decide whether or not the President had violated the Tenure-of-Office Act in removing Stanton, assuming that the office of

the Secretary of War was protected by the terms of that Act. In fact, the whole case was built upon an assumed state of fact, on rumor, and hear-say evidence. This was the kind of casesuited to Butler's talent, but he did not have the usual jury to deal with for, sitting before him, there were no less than forty-four able lawyers out of the fifty-four Senators--men that were familiar with the tricks of the trade.

Butler began by saying, #"That the Senate, organized as a Court of Impeachment, was not a court; that not being a court, it was bound by no precedents; it could make its own rules of evidence and generally be a 'law unto itself'." Butler's argument, in brief was that Johnson was merely filling out Lincoln's unexpired term, and that Stanton could not be removed from office under the Tenure of-Office Act because he had been appointed by Lincoln, and that the law protected all officials during the term of the President by whom they had been appointed. Johnson's term was therefore Lincoln's term, and President Johnson violated the law by removing the Secretary of War, thereby forfeiting his office.

After several hours, Butler brought his speech to a close, relieving the suffering spectators and disgusting those Senators by his absurd abuse--these Senators, who knew in their own minds that the power of impeachment was being misused for party purposes. Before the day ended, there was some evidence of a reaction in favor of the President.

In ordinary courts of law, the presiding judge passes upon the admissability of all evidence, but the moment that Judge Chase

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attempted to act in this capacity his authority was at once challenged. The Senate was to be the chief judge of what testimony was to be given. It was, in fact, a very amusing situation, the Senate was to be judge, jury, and anything else that it might be called upon to be to gain the desired end.

The trial had been held for six days and yet nothing had been proved, only what stood admitted in the beginning, namely, that the President had attempted to remove Stanton, Secretary of War, and had indulged in an undignified utterances at the expense of his political enemies some two yeass previous.

After a short adjournment and on the ninth of April, Judge Curtis opéned for the defense. Again the Chamber was crowded with spectators. Judge Curtis enjoyed a reputation in his profession that any one might be pnoud of. He was a jurist of recognized authority. Well aware of Butler's failure in impressing his fellow-jurymen, Curtis addressed them with admirable dignity and tact, arguing as a lawyer to lawyers, aining each sentence to the best professional talent among the Republicans of the Chamber, for it it was with them that danger of conviction lay at stake. A dozen or more of the Republicans were open to legal persuasion, and if men could be won on a purely intellectual appeal, all danger of cnnviction would be over.

Curtis began by saying, #" I am here to speak to the Senate of the United States sitting in its judicials capacity as a court of Impeachment, praided over by the Chief-Justice of the United States, for the trial of the President of the United States___

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The Honorable Managers have informed you that this is not a court, and whatever may be the character of this body it is bound by no law__________/ Each one of you before you took your place here called God to witness in this case that you would administer in this case impartial justice according to the Constitution and the laws." He continued by stating: "that if any one imagined that this oath invested him with authority to make up his own laws as occasion rewuired, or as his desires dictated, his ideas of administering impartial justice were not those approved in the profession of law."

Butler's whole speech was entirely demolished by that of Curtis, from the "law unto itself" theory, the cowardly wording of Tenure-of-Office Act, he showed, was not intended to prevent the President from removing Stanton, and if it were, it was so badly constructed, that it had utterly failed in the purpose, to Butler's elaborate fiction that Johnson's term was Lincoln's term, he showed that Death was a limit, while four years was not an absolute limit.

After the speech of Curtis, different witnesses were called to testify, but when offering to testify in favor of the President, they were immediately stopped by the Senate, for no such evidence was wanted. A more shameless denial of justice can scarcely be imagined, than was permitted in this trial. But the President's counsel had no time to spare. Mr. Evarts spole in defense of his client, stating that the cabinet had advised the President that the Tenure-of-Office Act was unconstitutional and the veto message

would have been written by Stanton himself had he not been ill at at the time; as it was he aided Seward in doing it. But the partisan Senators sought to cover such information by voting to reject the proposed proof, although Mr. Stanton, the protege of Congress, whose dismissal was declared criminal by the impeachment had himself approved the President's criminality. But not one word of testimony on these vital subjects was permitted. Public opinion throughout the country began to revolt at such attempts to suppress the truth, and more than one Senator became disgusted at such a mockery of justice.

It was useless in the face of the Senate rulings to prolong the trial for vital testimony was constantly being rejected by the Senate. The Senators, therefore, voted a short adjournment to enable the respective counsel to prepare for a summing up.

The Senate assembled again on the sixteenth of May to record its verdict. The galleries were again crowded to their utmost capacity. All Senators except Grimes and Howard were at their posts, and just before the house was called to order, the door opened and Senator Howard was practically carried to his seat. Howard's vote was regarded as pledged for conviction, while Grimes vote was likely to favor the accused. The enemies were anxious that a rush vote be taken before the other Senator could arrive. But the door again opened and in walked Senator Grimes, more dead than alive. He was helped to his seat and the High Court of Impeachment proceeded.

The roll was called in alphabetical order, and the question

of Guilty or Not Guilty was asked. #" Seven Republican Senators, Fessenden of Maine, Henderson of Missouri, Fowler of Tennessee, Van Winkle of West Virginia, Trumbul of Illinois, Grimes of Iowa, and Ross of Kansas, joined with the Democrats to save the President and the vote stood "Guilty" 35, "Not Guilty" 19, one less than the necessary two-thirds. Although the radicals poured forth a torrent of words upon the whole situation, the case ended.

President Johnson finished his term in office and then returned to Tennessee. He again entered public life, offering himself as a candidate for the United States Senate. It was seven years after his trial when he stood before Vice- President Wilson and tood the oath of a Senator from Tennessee.

Andrew Johnson will be admired by those who have carefully studied his career. Unpromising as was his origin, he developed himself into the leader of the nation. Being a Southerner, he knew the conditions of the South as Congress did not. He understood clearly how to handle the problems that confronted the nation after the civil war. He considered that the states were not out of the Union, for the question of secession was settled forever by the fierce arbitrament of civil war won by the Union men.

Since the states were in the Union, it was the President who had the power of Reconstruction and not Congress, for the rebellion against the United States was not the "States" but a combination of disloyal persons who had destroyed the loyal government of the states. It was the work of the Executive through the pow-

#United States in Our Times, Haworth, Chap. I. Page 36

er of pardon to create a loyal class in the states, and it was the work of the Executive to support that class by the military power in taking possession of, organizing, and operating the "State" Government.

Each house, however, had the power to judge the qualifications of its own members, but where ever a state had organized a true State Government, the Constitution provides in Article I, Section II That the House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for election of the most numerous branch of the State Legislature." Johnson felt that the people of each State should have the right to determine the suffrage according to this clause.

The Tenure-of-Office Act which Johnson was tried for violating was not violated. Stanton had not been appointed by Johnson, and the Tenure-of-Office Act provided that offices were fixed only through the Administration of the one who appointed them. The Act was later proven unconstitutional by the Supreme Court.

Johnson's administration was a fight with Congress from beginning to end. Although Johnson was obstinate, coarse, very untactful, and lacking in the sense of propriety, he was an honest upright and patriotic citizen--loyal to his government with a loyalty which was exhibited through the sacrifice of personal advantage in order to maintain the Union and to preserve the Government. Although Johnson's ideas of Reconstruction were not carried out, it has been admitted that they were far better than the ones that

were put into execution.

Impartial judgments of the later historians, more and more tend to justify the decisions, attitudes and arguments of Johnson. From the vantage point that the distance of more than half a century gives to the historian of today, far from the smoke of the turmoil, of the bitter hatreds and the fierce passions that obscure in their mists the persons who played the leading parts in the scenes of the Reconstruction Days, the character of Johnson stands out clearer and clearer on its rugged honesty and native ability--not perhaps in overshadowing greatness but as one who, in the difficult part, played the man, and against terrible odds, played it well.

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