SPEECH

OF

HON. WILLIAM D. KELLEY,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES, FEBRUARY 12, 1867.

The House having under consideration the bill (H. R. No. 1143) to provide for the more effectual government of the insurrectionary States—

Mr. KELLEY said:

Mr. SPEAKER: I rise to express the hope that the House will adopt the bill under consideration as reported by the committee without amendment. Considerable dissent has been manifested, and the House refused by a very decided vote to order the previous question when called by the chairman of the committee. Yet, after the ample discussion the bill has had, and especially after the incidents of yesterday and to-day connected with the Louisiana bill, I indulge the hope that when the final vote is ordered the House will adopt the bill.

Unanimity cannot be expected among a numerous body of gentlemen like those who wield the power of this House. They represent intelligent and thoughtful constituencies, and it has never been my privilege to mingle with a body of men among whom there was so much well defined individuality of character as in the controlling party of this House. It is impossible, therefore, that we should obtain entire unanimity of judgment on important measures. There has been on almost every important law enacted concession, I may say—much as I have come to despise the word—compromise, as to detail and language. A gentleman suggests to me the word "coöperation." I accept it as a better word, which more accurately expresses my sense of our duty.

Some days since, when first entitled to the floor on this question, I went to the Clerk's desk and found that already six amendments to the bill had been printed. I had in my mind one which I would gladly have offered. I found it in direct hostility to the purpose of several of those that were in print. It was brief, but I then thought it essential. It was to insert in line three, immediately after the word "that," the words, "such pretended governments are hereby declared void and set aside, and that."

Since then we have had the substitute submitted by the distinguished gentleman from Massachusetts, [Mr. BANKS;] and the gentleman from Missouri [Mr. KELSO] has one which I regret has not found its way into print, for if any were to be adopted it would command my preference.

Under these circumstances we cannot hope to frame a bill on a subject of such primary importance that will meet the unqualified approval of every Republican member. All we can expect to do is to frame one in harmony with and support of that which we passed to-day, which all must agree is as a whole, though not in my judgment perfect in detail, a wholesome and needed measure. I apprehend that a large part of the dissent from this bill arises from the fact that gentlemen have not understood the limitations of its scope and purpose, and have regarded it as a reconstruction bill.

Let us recall the history of the constitutional amendment now pending. Supposing that it was proposed as a finality, almost every gentleman on this side of the House dissented from and sneered at it, yet we all voted for it; and when it came to be considered by the people it met with an approving response such as few measures have ever received. I remember, sir, that when it first came to the House I asserted that my opposition to one of its provisions was irrevocable. Nor was that a passionate exclamation. It was deliberate, for in other connections I had considered the point. Yet after due consideration of the measure as a whole, and ascertaining its limitations, I voted for it. We were ready to reject it because we supposed it was brought to us as a finality, as a conclusive measure. As such it could not

SPEECH

OF

HON. WILLIAM D. KELLEY,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES, FEBRUARY 12, 1867.

The House having under consideration the bill (H. R. No. 1143) to provide for the more effectual government of the insurrectionary States—

Mr. KELLEY said:

Mr. SPEAKER: I rise to express the hope that the House will adopt the bill under consideration as reported by the committee without amendment. Considerable dissent has been manifested, and the House refused by a very decided vote to order the previous question when called by the chairman of the committee. Yet, after the ample discussion the bill has had, and especially after the incidents of yesterday and to-day connected with the Louisiana bill, I indulge the hope that when the final vote is ordered the House will adopt the bill.

Unanimity cannot be expected among a numerous body of gentlemen like those who wield the power of this House. They represent intelligent and thoughtful constituencies, and it has never been my privilege to mingle with a body of men among whom there was so much well defined individuality of character as in the controlling party of this House. It is impossible, therefore, that we should obtain entire unanimity of judgment on important measures. There has been on almost every important law enacted concession, I may say—much as I have come to despise the word—compromise, as to detail and language. A gentleman suggests to me the word "coöperation." I accept it as a better word, which more accurately expresses my sense of our duty.

Some days since, when first entitled to the floor on this question, I went to the Clerk's desk and found that already six amendments to the bill had been printed. I had in my mind one which I would gladly have offered. I found it in direct hostility to the purpose of several of those that were in print. It was brief, but I then thought it essential. It was to insert in line three, immediately after the word "that," the words, "such pretended governments are hereby declared void and set aside, and that."

Since then we have had the substitute submitted by the distinguished gentleman from Massachusetts, [Mr. BANKS;] and the gentleman from Missouri [Mr. KELSO] has one which I regret has not found its way into print, for if any were to be adopted it would command my preference.

Under these circumstances we cannot hope to frame a bill on a subject of such primary importance that will meet the unqualified approval of every Republican member. All we can expect to do is to frame one in harmony with and support of that which we passed to-day, which all must agree is as a whole, though not in my judgment perfect in detail, a wholesome and needed measure. I apprehend that a large part of the dissent from this bill arises from the fact that gentlemen have not understood the limitations of its scope and purpose, and have regarded it as a reconstruction bill.

Let us recall the history of the constitutional amendment now pending. Supposing that it was proposed as a finality, almost every gentleman on this side of the House dissented from and sneered at it, yet we all voted for it; and when it came to be considered by the people it met with an approving response such as few measures have ever received. I remember, sir, that when it first came to the House I asserted that my opposition to one of its provisions was irrevocable. Nor was that a passionate exclamation. It was deliberate; for in other connections I had considered the point. Yet after due consideration of the measure as a whole, and ascertaining its limitations, I voted for it. We were ready to reject it because we supposed it was brought to us as a finality, as a conclusive measure. As such it could not

have been adopted, I think; and the people responded to it enthusiastically as they did because they had learned that it was but one of several measures essential to the preservation of the country. They saw, as we had done before we passed it, that it was simply a measure to protect forever the country and the people against the dangers which the gentleman from Massachusetts [Mr. BANKS] still seems to apprehend as imminent. It protects the sanctity of the national debt.

It secures the citizenship of the people of the American Union throughout its limits, be they natives of what State or country they may, and protects them and the Government against claims for damages done during the war, property seized by our Army, or for slaves made free by proclamation or the act of war; it establishes the political equality of men whether they dwell in the cold North or the sunny South, and provides for the repudiation of the rebel debts and the sanctity of the debt of the nation. These were its purposes, and these it performs.

The work of reconstruction will be provided for by other bills than the one now under consideration. This, sir, I may say, is little more than a mere police bill. The necessity for it arises from the perfidy of the President of the United States. Had he been true to the duties of his high office and his public and repeated pledges there would have been no necessity for considering such a bill. It does but propose to enable the General commanding the Army of the United States to execute the dying purpose of Abraham Lincoln, and, if we may accept as evidence, his oft-repeated assurances the early presidential purpose of Andrew Johnson. Its object is to maintain peace throughout the insurrectionary districts, the people of which, as the President has asserted in a dozen solemn proclamations, have by revolutionary violence been deprived of all civil government. It proposes to give peace and safety to every man within the limits of that extended district, irrespective of the tint of his complexion, or whether he fought against or for his country's flag. Its object is to preserve peace and vindicate the sanctity of human life.

The gentleman from Massachusetts [Mr. BANKS] said that at first it was his purpose to sustain the bill, but that he had concluded to oppose it as he did in a lengthened speech. In assigning reasons for this change of opinion, he said:

"It made a frame of civil government to be administered by the regular Army without any restriction or limitation of power, except the discretion of the regular Army. The regular Army, in administering that power, was to be without responsibility to the Constitution, to the Congress, or to the people of the country, but was to be responsible only to the commander of the Army."

Sir, the bill does in this respect what the law of nations and his oath of office justified Abraham Lincoln in doing and required his successor, Andrew Johnson, to do; that is, to administer under the military power such laws as should give security to property, person, and life in districts the civil government of which had been overthrown, and to continue such administration until the law-making power could establish civil governments and codes of law for the people. It proposes to enable Grant to do throughout that confederacy, whose armies he crushed, what Scott did in conquered Mexico and what Butler and BANKS did in that part of Louisiana in which by the aid of the Navy our Army established itself. They protected life and property and maintained peace while awaiting the action of that branch of the Government which had the right to make terms with the conquered or to frame laws for their government.

That is what this bill proposes to do. It abrogates the results of Executive usurpation by ignoring the existence of the illegal and anomalous governments established by the Commander-in-Chief of our armies and Navy. In the establishment of these "so-called" or "pretended" States he usurped a greater power than any that is proposed to be ordained by this bill. Who made the "so-called" government of North Carolina? Andrew Johnson. By what power? By virtue of the fact that he was Commander-in-Chief of the armies and Navy of the nation. And by virtue of that same power, enforced by the persuasive influence of the pardoning power, he arrogates to himself and exercises the right to supervise, control, and govern those governments. He told their conventions what they must and what they might not do, and those so-called sovereign bodies obeyed his commands. Through the officers of the Army he suspends or enforces the enactments of their so-called Legislatures as pleases his whim, so that their laws depend upon his temper or the state of his digestion. There are no States there; and to speak of these organizations as such is an abuse of language. There are pretended States, "so-called" States; States whose nominal Legislatures and Executives are not at liberty to deny that they are subservient to the will and orders of the acting President of the United States. They are not such republican governments as Congress can recognize. They are known to Congress and to the people to be the offspring of executive usurpation and instruments of power in the hands of a usurper, and must be declared void and set aside.

But gentlemen cry, "That will produce anarchy; we must not leave the people without government and law." No such consequence will ensue. When we brush away these foul usurpations the law will arise that was in force when Lee and Johnston surrendered. The difficulty is that the false man upon whom crime devolved the presidency will not execute that law. He has given us his construction of

it, and we have the results before us. I shall attempt to depict those results as I proceed, though conscious that my poor effort will sadly lack color and effect. It is important, therefore, that we embody that law, coming to us as it does through the progress of civilization from its dawn to the close of the last war, in statutory provisions, and hold him responsible, under our power of impeachment, for the faithful execution of every clause we enact.

Gentlemen will not deny that we have that power if war still exists. The distinguished gentleman from Ohio, [Mr. SHELLABARGER,] whose views on that point I accept, says that we are not now engaged in war *flagrante*; that it is war *cessante*. And what is war *cessante*? It is when two armies rest under stipulations of armistice or temporary treaty; that no life shall be taken and no position changed during a given interval. Our condition is nominally that of war *cessante*; but it is war *flagrante* on the part of the rebellious people of the so-called or pretended States, for they give neither justice nor safety to the friends of the Union. They slay them by night and by day, sleeping or waking; giving to *quasi* war horrors that do not belong to it within entrenchments or on tented field.

The gentleman from Massachusetts, [Mr. BANKS,] defining our condition, said: "It was not peace, it was not war; it was a state of siege." Sir, I would like to know whether he regards a state of siege as a condition of war or peace? Does he think the people of Leyden and Utrecht heard the drowsy hum of peace during the siege which they endured; and that the tender women and children who cowered in caves during the siege of Vicksburg were vexed by doubt as to whether peace or war prevailed? Was Valdez in doubt on that point when he demanded the surrender of Leyden, and received from Dousa the reply that "When provisions failed the people of that city would devour their left hand, reserving their right to defend their liberty?" Sir, when the people of that city, gathering around the good burgomaster Vandenwerf, presented their wasted forms and cried for bread, he knew they were suffering war's most agonizing horrors, and, like a true soldier, replied: "Bread I have none; but if my death can afford you relief tear my body in pieces and let those who are most hungry devour it!"

Sir, when the gentleman said our condition was that of a state of siege, he declared it to be that most ruthless form of war which knows not sex or age. What man in all Protestant christendom has not thrilled at the horrors of war, and at its glories, too; at the burst of pride with which Walker welcomed those citizens of Londonderry, who had searched his cellar to find whether he had food to sustain him in uttering such brave words of resistance, and came to tell him that there was nothing within his premises for the sustenance of wife or child.

But who, sir, are the besieged; who are the starvelings of this state of siege which is not war? Who exist furtively upon the bleak mountain side or bury themselves in the miasmatic swamps? They are Union men, our friends, the companions in arms of the soldiers who, carrying our flag, broke the military power of the rebellion, and who, if *we* will but protect them, will break its spirit and curb even its proud leaders and make of them at least passably good citizens. If there be a siege they are its victims, and this bill will enable their fellow-soldiers, those who stood beside them in the battle-field, to restore them to their homes and shield and protect them.

The gentleman from Ohio, [Mr. LE BLOND,] more logical by far than the gentleman from Massachusetts, asserts that the old States still exist, and says that we should not expect

"That perfect peace would prevail throughout those States as soon as the war ended. It was in the nature of things there would be lawless conduct on the part of many citizens."

But he also asserts that—

"The civil authorities there have been using the power they have to keep down this lawlessness and to punish men for the commission of offenses."

Sir, had the latter assertion been well founded, the Thirty-Ninth Congress might possibly have adjourned without enacting such a bill, and escaped the reproaches of our constituents and the hissing curses of southern Union men. War, while it calls forth the noblest attributes of individuals and communities, is and must ever be, a great demoralizer. We therefore do not hold the people of the South responsible for individual acts of violence. We have felt the demoralizing effects of the late war all over the North. Crimes of unusual magnitude and turpitude have been committed in almost every city of the North. But the treatment of their perpetrators in contrast with that of murderers of Union men at the South serves to distinguish between a state of war and peace. This contrast shows that in passing such a bill as this we will not be legislating to meet individual cases of violence, but to restrain a community that is at war with the Government and all who sustain the Government. At the North perpetrators of great crimes have been pursued and brought to trial and punishment. Their forms have graced the gibbet and admonished those who would offend in like degree that they are in a land of law.

But will gentlemen who deny the existence of war tell me what one murderer of a Union soldier has been brought to trial and punished by the civil authorities of these pretended States? The military arrested some few murderers and tried and convicted them, but through the machinations of Andrew Johnson, the present leader of the rebellion, they have been turned loose and have received the wel-

come of their fellow-citizens, "Well done, good and faithful servant." Thus the crimes of individuals are assumed by the communities of which they are members, and in the crimes and their assumption by the community we find a reply to the question whether the gentleman's state of siege be war or peace. Sir, if the present condition of the Union men of the South be peace, may God pity the most courageous and hardy of those whose country is at war! Let us in mercy assume that it is not peace, but war, and arm the Union men for their defense of home, family, and life. The bloody barbarities of the rebel captors at Fort Pillow disgrace the annals of civilized warfare; but atrocious as they were they are exceeded by the horrors inflicted by the so-called civil authorities of New Orleans upon the unarmed members of the constitutional convention and its friends gathered around it in that city. And, sir, the loathsome details of the sacking of Badajos are exceeded by the atrocities reported to us by the committee to inquire into what gentlemen on the other side of the House mildly term the "Memphis riots." Our abhorrence of the atrocities at Badajos is mitigated by the fact mentioned by Napier, that hundreds of soldiers attempted, and many lost their lives in the attempt, to stay the outrages. There is no mitigating fact of that kind in the report of the "Memphis riots" committee.

The gentleman from Maine [Mr. PIKE] has given us a picture of the condition of the Union men, soldiers and citizens, white and black, of South Carolina; and the report of the committee of which he is chairman contains, I am told, much more than we have yet heard. I beg leave to turn to the State of North Carolina for a few illustrations of their condition throughout the South generally. I select it, not because I regard North Carolina as the worst of these so-called States, but because, with the single exception perhaps Florida, a Union man is as safe in North Carolina as elsewhere in the insurrectionary district.

I remember, sir, that more than a year ago three friends of mine from New England, one of whom must be known to gentlemen from Massachusetts—Mr. Thomas Drew, of Boston, formerly editor of the Massachusetts Plowman—returned to this city from North Carolina. They had gone thither to invest capital in renting or purchasing a plantation. They proposed to carry capital, seeds, and implements and New England culture and thrift to the people of that State and to settle among them. But they had made no settlement. They were returning to cold and sterile Massachusetts. Do gentlemen ask why? It was because when they were about making a contract of lease or purchase for a property one Roddick Carney and his father had notified the owner of the property that if he rented to the "Yankees" they would burn his dwelling and outbuildings, and with the same frank amiability notified my friends that if they purchased every freedman they employed or "Yankee" they brought there to work should be murdered. "But did you believe them?" said I. "Oh, yes," said Mr. Drew, "for Roddick Carney had but a few days before, as he said for fun, shot two negro boys to show how good a marksman he was."

Some few weeks ago a discreet and courageous friend from another quarter of the country was going into the same State, and I begged him to let me hear his views of the condition of the people. I received a lengthy communication from him last Saturday. I will offer some extracts from his interesting letter, from which it appears that Roddick Carney would probably have executed his threats had my friends persisted in their patriotic and philanthropic enterprise. The writer says:

"Some fourteen months since one Roddick Carney with a few friends committed a number of outrages upon the loyal citizens of Beaufort and Pitt counties, and in mere wantonness shot and killed two negro boys. The civil authorities, neglecting or refusing to take any measures to arrest and punish these murderers, a lieutenant with a squad of man was sent to arrest them. While they were endeavoring to arrest him Carney shot and killed the lieutenant. Another unsuccessful attempt to arrest him was made by the military, and he is now living undisturbed in Beaufort county.

"This murderer, Carney, has in his possession a colored boy, named Joseph Wiggins, the son of a respectable negro man, and he refuses to give him up. The civil authorities profess that they are afraid to arrest him or have anything to do with Carney for the relief of the enslaved negro."

Fourteen months ago this man Roddick Carney perpetrated two unprovoked murders. Nearly fourteen months since he murdered a lieutenant of your Army engaged in the performance of duty; and if the civil authorities are discharging their duties, and if there be peace there, why in the name of law and justice is he living unmolested and respected in the community in which he dwells?

But let me read another extract from this same communication:

"Near Hillsborough, in Orange county, in November of 1866, a freedman who had raised a small quantity of corn invited a few of his friends to assist him in shucking it. In the evening while the party were singing and dancing, a rebel named —— C—— heard them, armed himself with a gun, went to the freedman's house, and with oaths and curses demanded to know what they were doing. The freedmen, frightened, attempted to escape, when he deliberately shot one of their number, killing him almost instantly. The coroner's jury returned a verdict of 'accidental homicide,' and there the matter rests."

Do not these statements portray a capital state of peace?

My informant is a cool, courageous, business man, a man of veracity, upon whose statement and judgment I confidently rely. He indicates the reason for these crimes and this impunity in a brief passage, as follows:

"It must be understood that four fifths of the white

population are fanatically devoted to the cause of the rebellion, that the present so-called State government is composed entirely of men who have, in one form or another, proved their devotion to secession and rebellion, and in whose creed the cardinal plank is contempt for Yankees and 'niggers' and hate for the Government of the United States. The 'Howard amendment' stood, from the first, no chance of acceptance by a Legislature, most of the members of which were elected on their rebel war record, after much ranting declamation in which the candidates boasted of having carried the rebel flag in triumph from Big Bethel to Bentonville, vieing with each other in vaunting what they had done to destroy the national Government and drench the country with blood.

"As a matter of form the courts are open; as a matter of fact there is no such thing as an impartial administration of justice by the courts between whites and blacks, rebels and Union men; the prejudice of the judges, justices, the lawyers, and of the juries in favor of the rebel white and against the Union men and the negroes forbid it."

Mr. Speaker, I cannot better illustrate the power and efficiency of civil authorities so eulogized by the gentleman from Ohio [Mr. LE BLOND] than by asking the Clerk to read a short extract from the same letter of my correspondent. It relates to the Governor of one of the pretended States.

The Clerk read as follows:

"As a sample of the carelessness of Governor Worth in his official statements I may mention the laws governing the apprenticing of children in North Carolina. In his message to the General Assembly at the commencement of the session, (November 19, 1866,) he admits that in the matter of apprenticing there is a distinction made by the law of the State between white and black children, or rather between children of purely white parents and children having some faint trace of negro blood, for many who were two years ago slaves are as white as their former owners.

"One month later (the 19th December) he tells the President and General Howard that the law of North Carolina makes no distinction on account of color or race in the apprenticing of children.

"And still another month later, (the 29th of January, 1867,) when the cry of parents whose children had been torn from them and bound to cruel and hard taskmakers became so loud that the authorities could not shut their ears, and when the children, thus ruthlessly thrust into a slavery worse than that of other years, starving, freezing, sickening, and dying under the cruel treatment of their chivalrous masters and high-born mistresses, at last escaping told their piteous stories to officers of the Freedmen's Bureau, then, and not until then, the General Assembly of North Carolina passed an act to amend the fifth chapter of the revised code, entitled 'apprentices,' which act purports to repeal all laws discriminating between whites and blacks in the apprenticing of children; yet this same act in substance declares that the indentures of all children heretofore illegally apprenticed shall be declared legal and valid; and this when it must be well known to the members of the General Assembly of North Carolina that all the children illegally bound were the children of negro parents.

"Grant that the laws make no discrimination between whites and blacks, no one who is familiar with the action of the courts in the rebel States can for a moment suppose that there will not be, in the future as in the past, a discrimination made against the negroes.

"There is scarcely a single case of apprenticing of negro children in this State during the past eight months in which the State laws protecting the children have been respected by the courts.

"There are hundreds of cases which might be cited to prove all that I have asserted concerning the action of the courts in this matter of apprenticing negro children. I will mention one or two, which will serve as examples.

"Near Tarboro' two children, girls over eleven and the other thirteen years of age, were last summer apprenticed to their former owner. The girls and their had formerly been whipped to death under the orders of the wife of the man to whom they are thus apprenticed; then the master and owner of the murdered woman. Recent information shows that these children, who are still held as apprentices, are nearly starved and not half clad; the only garment they wore, while picking cotton in the inclement weather of December, was a straight gown, short in the skirt, and with short sleeves, with neither shoes, stockings nor bonnets.

"The father and two brothers of these girls are laboring for a gentleman from the North who is engaged in planting, and together earn about sixty dollars per month and their rations. The girls were apprenticed without the consent of their father, who has made repeated efforts to recover his daughters that he might send them to school, but thus far his efforts have been vain, and the girls are now held in a condition of slavery much worse than that in which they formerly lived. The younger of the two was now nearly eighteen years of age, and who has during the past year been earning twenty dollars per month and his rations, was last fall apprenticed to the man to whom his sisters are apprenticed, who has used his former employee for the wages of the boy for the past year."

Mr. KELLEY. Mr. Speaker, from the same source I draw one more illustration of the ridiculousness of the position assumed by those who claim that we are in a state of peace, and that the President of the United States ought not, therefore, to protect the Union men and other citizens by the military power of the Government. My correspondent says:

"In 1865, a freedman named Lewis Warren was arrested in Sampson county, on a criminal charge, imprisoned, tried, and acquitted. He was confined in jail nearly five months. The charge of jail fees and the cost of the suit, ($120,) were charged to him after he had been proven innocent before the court and acquitted; and to pay these costs he was sold by the sheriff, upon the order of the court, for three years to one Simon Peter Hobbs, of Sampson county, for whom he labored faithfully for thirteen months and eighteen days. He then escaped, and is believed now to be concealed by certain well-known Union men in Johnson county, who, at their own peril, are preserving the liberty of a man whose innocence has been vindicated even before a rebel court."

Mr. Speaker, in taking leave of North Carolina I turn to Texas. I have a picture of things in that State taken from the New York Tribune of last Friday morning. It presents a condition of things quite as bad as that in South Carolina, as reported by the committee over which the gentleman from Maine [Mr. PIKE] presides, quite as bad as that reported as existing in Louisiana by the committee whose bill we passed to-day. When gentlemen shall have heard they will be able to judge whether Texas is at peace or war or in a state of siege. It is as follows:

"One of the first acts of the Legislature was to abolish the judicial districts in which Union men had been elected judges; the administration of the law was restored entirely to rebels. Large grants of lands and money were made to rebel officers. The bodies of rebels were brought from other States for reinterment, and no act passed authorizing the bodies of Union soldiers from the State penitentiary. Code

gressional districts were created by which counties thirty miles apart were placed in the same district for the purpose of preventing the election of any man to Congress who could take the test oath. In rejecting the constitutional amendment, October 18, the Legislature adopted a report which declared the action of Congress to be 'a nefarious conspiracy,' 'crafty and iniquitous legislation,' 'degrading and malignant.' Labor laws were framed which practically reduced the freedmen to slavery, and were found so monstrous that the Freedmen's Bureau refused to admit their authority. In brief, the Legislature of Texas, animated by the old spirit of slavery and rebellion, did nothing for loyalty and order, but directly encouraged that reign of violence which is now driving Union men from the State and making the negroes serfs. The United States military force in Texas is small, and outside of its immediate protection Union men and freedmen are at the mercy of rebels. Hundreds of cases of outrage have been published recently; of these we will quote a few furnished by unquestionable authority.

"In the spring of 1866 a son of Jonathan Lindley was murdered in Bell county; his murderers were arrested by the military, and in attempting to escape two of them were killed, it is said by Major Carpenter, commanding the troops, and Mr. Lindley. In November Lindley was arrested for murder and placed in jail. Through his counsel he applied to General Heintzelman for protection, affirming that his life was in danger because of his Union principles. General Heintzelman laid the facts before Governor Throckmorton, who replied, November 17: 'I apprehend that Mr. Lindley is in no danger from rash violence in Bell county. I shall write to the authorities of that county on the subject, and impress the necessity of a strict compliance with the law and the confidence expressed by Major General Heintzelman in their regard for law.' Solemn assurances were given by the authorities of Bell county that Lindley should be dealt with justly. Near the end of November the troops in the neighborhood were sent to the frontier to protect the people of Texas from Indians, and on the night of December 3 a mob of about thirty entered the jail, murdered old Mr. Lindley, his son, and another inmate of the jail who was an entire stranger to the Lindleys. In this case not even the interference of Governor Throckmorton was a protection. It is an instance of the cruelty of trusting to the civil courts the lives of Union men; the folly of believing that Texas rebels respect any authority but that of the bayonet.

"We believe that for almost every day of the past six months a murder of a Union man or a negro might be cited. But the cases which we quote are sufficient to show the condition of the State. On the 21st of October, in Grayson county, four men rode up to the house of a freedman named Daniel Wheat, arrested him for some pretended offense, and shot him before his own door. The murderers were not arrested. In Sumpter, Trinity county, a freedman was burned alive in December, and several killed. In Chambers county, in the same month, a Union man was beaten by two men till he was senseless, and his house robbed. An order for their arrest was issued, but the outlaws snatched the warrant from the sheriff, tore it to pieces, and defied his power. Edmund Parsons and Mat. Hewlin, two freedmen, were shot in Travis county in December, by white men, apparently from mere wantonness. Their murderers were not arrested. At Prairie Lea, December 8, a negro was publicly whipped for calling a young rebel Thomas, instead of Master Thomas. On the 15th, at the same place, a bottle of whisky was demanded of a negro, and upon his refusal to give it he was shot. The murderers were known, but the civil authorities refused to arrest them. Prairie Lea is forty miles from any military post, and it is the common amusement of the rebels, mounted on horses, to chase the freedmen through the streets and shoot at them with revolvers.

"'Never,' says a trustworthy correspondent of the Freedmen's Bureau, presenting the case of a Union man, 'in the days of slavery has there been known the wrongs, the outrage, the oppression that now exist in the northeastern counties of Texas toward the poor negroes. They are now more downtrodden and brutally treated than he has ever known them during his residence here, which has been ever since 1833. They have no rights whatever that are respected; and he has related to me instances of cruelty, wrong, and violation of all law toward them which would make your heart bleed. His own freed negroes have returned to him and besought him to receive them to his care as his slaves, that they might have some protection. He says that the lash is now more cruelly administered than it ever was; that negroes who have cultivated lands rented from some of the white men, after growing fine crops and having them laid by for the harvest, have been deprived of everything upon some pretext sought by the landlord to engage in quarrel, which would terminate in the most brutal punishment of the negro and his dismissal without a dollar for the labor he had bestowed upon the crop. I could not pretend to attempt a description of outrages, from cold-blooded murder down; and there is not an agent of your bureau or an officer to whom these people can appeal for redress.'

"This description correctly applies to every district in Texas of which the United States troops have not control. In Harrison county bands of organized robbers plunder whites and blacks alike, and in twenty-seven other counties in that district there is no safety for negroes or loyal men. From the northern part of Texas we have testimony that the freedmen are not paid for their labor, and remain in actual slavery. Freedmen who dare to bring suits to recover wages due are frequently whipped, and many of those who at the close of the year were paid were afterward robbed. 'Unless protection can be afforded from the military,' writes a Union man in Caldwell county, 'assassination will soon become the order of the day.' Panola county was in November, probably is, controlled by organized robbers whom the civil authorities dared not attempt to arrest. Thus the catalogue of crime continues; but we have said enough. If these were exceptional cases we should have said nothing; but they are the rule; and though we have few reports from Texas during the month of January we believe that the number of murders is not diminishing, and the condition of the State probably growing worse."

Mr. Speaker, the condition of things I have thus fully attempted to portray prevails in a greater or less degree throughout the whole district in which civil government was overthrown. It is to remedy it that we propose to pass this bill and divide it into five military districts. If we have no right to redress such wrongs and establish government where none exists the bill should fail. If we are thus powerless there is an end of the matter, and we ought to proceed to other business.

Upon what theory is our right and power to do this denied? It is said ten States exist there and that we have no right to interfere thus within the limits of States. The gentleman from Massachusetts [Mr. BANKS] said:

"He believed that the States lately in rebellion were still States. They had been made States by the action of the people and of the General Government, and they could never cease to be States until the General Government had consented to that condition. That consent had never been given."

I am never surprised to hear such assertions from the other side of the House, but when Massachusetts raises her voice in behalf of the doctrine of State rights and asserts that a State is immortal or indestructible, and that the confederated States are still States of the

Union, wherefore we have no right to interfere for the protection of Union men within their limits, I feel called to make my protest.

Sir, a State is not immortal. It may be dissolved by a sovereign convention of the people called together to modify the constitution, but which should refuse to adopt any, and the people accept the result. The people of a State, and with the people its organization, may be swept away by the act of God. A conqueror may crush out a State and annex or absorb its territory. The history of nations, from the dawn of civilization till to-day, shows that empires, kingdoms, and States are as evanescent as human life. States of the Union are destructible, and the confusion on this point, as to whether certain States are in the Union or out of it, arises from the fact that gentlemen consider that which is a complex question as a simple one. A State consists of territory, people, and political organism. The territory of Texas belongs to the United States; the territory of Louisiana and of Florida belongs to the United States. It was all acquired by purchase. We paid for them out of the common Treasury. Florida we bought of Spain, Louisiana of France, and Texas we bought with the gold and blood of a war with Mexico. The soil belongs to the United States, and the people who are on it owe their allegiance to the Government which exists in conformity to the Constitution of the United States, which has been decreed to be the supreme law of the land.

The territory could be taken from us but by successful war. Passing by the right of conquest, the allegiance of the people might be transfered with the soil. But those who attempted to transfer this territory to a foreign confederacy failed. The soil belongs to our country and the allegiance of the people is due to our Government. In so far they are still in the Union.

But there was, as I have said, another thing that entered into the organization of a State. Over the soil and over the people was a thing known as a constitution; in one instance of Texas, in another of Louisiana, and in a third of Florida. Those constitutions contained ligaments binding them to the Union. The fourth and sixth articles of the Constitution of the United States show how States are bound to the Union and interwoven with each other. We are to surrender fugitives from justice, and public acts, records, and judicial proceedings of each State are to be accredited in all others. There are many provisions by which the States are bound together in a Union. They have direct relations to the Union through the courts, the custom-houses, the postal system, and in divers other ways.

The insurgent States were overthrown, and if they were not out of the Union, to borrow a figure from that distinguished son of Maryland, Fred. Douglass, they had got the Union pretty thoroughly out of them. There were within the limits no United States courts, the judges of their courts took no oath to support the Constitution of the United States, as it provides, no United States laws were in force there, and judgments in favor of our fellow-citizens were of no effect. Fugitives from our justice, after poisoning our wells and disseminating disease among us, flew among them, and our indictments against them were not recognized by any of their Governors.

There were no States then known or related to the Union, nor are there any there now. The territory is ours, and the rebellious people having been conquered by our armies are subject to our control. We are bound to guaranty them a republican form of government. There are no States there, and if we would execute the law which this House adopted to-day we must pass this bill providing for a military government over them, so that our Army may give safety to the agents designated by that bill, to those who, through the long period of the war cherished a love for the Union, when they dared not avow it, and to those who, loving the Union, followed its flag and perilled their lives on bloody fields in its behalf.

Sir, this was in accordance with the views of Abraham Lincoln. General Weitzel made an arrangement by which the members of the Virginia Legislature were to meet at Richmond, and got Mr. Lincoln's consent to their visiting that city. But when it came to the President's ears that they were not to go there as private citizens but as legislators he canceled his order and prohibited the assemblage. It was the view of Andrew Johnson, expressed in my hearing and in a conversation in which I participated, to General Canby, at Arkansas. He then rejoiced that eight months must elapse before Congress was to come together, as during that time it would be his duty simply to secure peace and order through the military power to the people of that broad district then embracing Tennessee, and that during those eight months, while they would have no civil government, they would accept the end and true foundation of government and come to understand the people of the North, while the people of the North would come to know them better, and we would all be better able to estimate the capacity of the negro for freedom and our duty to him.

This was immediately after William Booth had invested him with the presidential office, before he had yet entered the Presidential Mansion as an occupant, and while he was yet the guest of the gentleman from Massachusetts [Mr. HOOPER] and holding executive levees in the Treasury building. Then, by his words might be believed, he had no thought save that the Government having crushed the armies of a powerful belligerent, it was his duty as its

executive head and Commander-in-Chief to hold the territory until the law-making or treaty-making power could exercise its functions and determine what should be the future condition of the conquered territory.

It continued to be his view until a later day. When General Sherman made his ill-advised peace with General Johnston he reannounced it. On the 22d of April, the day on which the terms of that arrangement were brought to the President, he, after consulting his Cabinet, set the agreement aside, assigning nine reasons therefor. Those reasons were utterly inconsistent with the idea that there were or could be States in that territory until the law-making power, which is Congress, should have exercised its functions. Some of those reasons are as follows:

[illegible] and munitions of war in the hands of the rebels at their respective capitals, which might [illegible] as the armies of the United States [illegible] had need to conquer and subdue [illegible] of rebel authority in their [illegible] they would be enabled to reestab- [illegible] the rebels from the pressure of our ar- [illegible] in condition to renew their efforts [illegible] United States Government and sub- [illegible] States whenever their strength was re- [illegible] and any opportunity should offer.

Mr. Speaker, I might add to these the clause in the proclamation establishing the so-called civil governments in North Carolina, in which he declared that all civil government had been overthrown by the violent revolutionary force of the people. But, sir, my hour is almost spent, and I must hasten to a conclusion. And in doing so I ask gentlemen not to regard this as a measure of reconstruction, but as a measure essential to the execution of the bill we passed to-day, and of similar bills for other parts of the insurrectionary district. I appeal to them by the adoption of this bill, pure and simple as it came to us, with the sanction of the committee of fifteen, to give security to every Union man in the South or avenge his wrongs, and to allay those who now are held in constrained hostility to the Government of their fathers to avow a desire for peace at the end of a long and disastrous war. Not alone do I make this appeal; from thousands of graves come ghostly voices chiding us with having invoked men to our aid and then shamelessly and pitilessly handing them over to the unrestrained malice of revengeful enemies whom they had aided us to conquer. The widow and the orphan cry to us not to disgrace [illegible] which exalted the fact that it has taken the lives of their husbands and fathers for their devotion to our country and [illegible]

The passage of this bill on its equivalent is required by the manhood of this Congress to save it from the hissing scorn and reproach of every southern man who has been compelled to seek a home in the [illegible] of the North, from every homeless widow and orphan of a Union soldier in the South who should have been protected by the Government [illegible] who despite widowhood or orphanage would have exulted in the power of our country had it not been for the treachery of Andrew Johnson. In God's name, men of the Thirty-Ninth Congress, do not [illegible] yourselves ignominiously with him by betraying the Union men of the South and surrendering nearly one-half of the country to rebels whose power your armies crushed.