

ordinarily would have been. But we are not now deciding what a loyal State acting in its constitutional sphere, and in its normal relations to the Union, may do; but what a rebel, belligerent, conquered State must do in order to be reorganized and to get back into those relations. And in deciding this I must repeat that we are to be governed only by justice, humanity, the public safety, and our duty to reorganize those conquered, belligerent States, as we can and when we can, consistently therewith.

In dealing with those States, with a view to fulfilling the national guarantee of a republican form of government, it is plain, since the nation is called upon to reorganize government, where no loyal republican State government is in existence, that it must of absolute necessity deal directly with the people themselves. If a State government were menaced and in danger of subversion, then the nation would be called upon to aid the existing government of the State in sustaining itself against the impending danger. But the present case is a different one. The State government was subverted in each rebel State more than four years ago. The State in its corporate capacity went into rebellion; and as long as it had the power waged and maintained against the nation rebellious war. There is no government in them to deal with. But there are the people. It is to the people we must go. It is through their people alone, and it is in their primary capacity alone as people, unorganized and without a government, that the nation is capable now of dealing with them at all. And therefore the government of the nation is obliged, by the sheer necessity of the case, to know who are the people of the State, in the sense of the national constitution, in order to know how to reach them. Congress, discerning new people, with new rights, and new duties and

new interests (of the nation itself even) springing from them, may rightfully stipulate in their behalf. If Congress perceives that it cannot fulfil its guarantee to all the people of a State, without such a stipulation, then it not only may, but it ought to, require and secure it. The guarantee is one concerning all, not merely a part of the people. And, though the government of a State might be of republican form, and yet not enfranchise its colored citizens; still the substance and equity of the guarantee would be violated, if, in addition to their non-enfranchisement, the colored people should be compelled to share the burdens of a State government, the benefits of which would enure to other classes,—to their own exclusion. A republican form of government is not of necessity just and good. Nor is another form, of necessity, unjust and bad. A monarch may be humane, thoughtful, and just to every class and to every man. A republic may be inhumane, regardless of, and unjust to some of its subjects. Our national government and most of the State governments were so, to those whom they treated as slaves, or whose servitude they aggravated by their legislation in the interest of slavery. The nation cannot hereafter pretend that it has kept its promise and fulfilled its guarantee, when it shall have only organized governments of republican form, unless it can look all the people in the face and declare that it has kept its promise with them all. The voting class alone, those who possessed the franchise under the State constitutions, were not the people. They never were the people. They are not now. They were simply the trustees of a certain power for the benefit of all the people, and not merely for their own advantage. The nation does not fulfil its guarantee by dealing with them alone. It may deal through them with the people. It may

accept their action as satisfactory in its discretion. But no matter who may be the agents through whom the nation reaches and deals with the people, that guaranty of the national constitution is fatally violated unless the nation secures to all the people of those disorganized States the substantial benefits and advantages of a "government." We cannot hide behind a word. We cannot be content with the form. The substance bargained for is a "government." The form is also bargained for, but that is only an incident. The people, and all the people alike, must have and enjoy the benefits and advantages of a government for the common good, the just and equal protection of each and all.

But what of the policy of the President? I am not able to consider his future policy. It is undisclosed. He seems to me to have left to Congress alone the questions controlling the conditions on which the rebel States shall resume their representative power in the federal government. It was not incumbent on the President to do otherwise. He naturally leaves the duty of theoretical reasoning to those whose responsibility it is to reach the just, practical conclusion. Thus far the President has simply used according to his proper discretion the power of commander-in-chief. What method he should observe was a question of discretion; in the absence of any positive law, to be answered by himself. He might have assumed, in the absence of positive law, during the process of reorganization, purely military methods. Had that been needful it would have been appropriate. If not necessary, then it would have been unjust and injurious. It is not just to oppress even an enemy merely because we have the power. In a case like the present it would be extremely impolitic and injurious to the nation itself. Bear in mind, ours is not a conquest by barbarians, nor by despots;

but by Christians and republicans. The commander-in-chief was bound to govern with a view to promoting the true restoration of the power of the Union, as I attempted to describe it in the beginning of this address, not merely with a view to the present, immediate control of the daily conduct of the people. He deemed it wise therefore to resort to the democratic principle, to use the analogies of republicanism and of constitutional liberty. He had the power to govern through magistrates under military or under civil titles. He could employ the agencies of popular and of representative assemblies. Their authority has its source, however, in his own war powers as commander-in-chief. If the peace of society, the rights of the government and of all its subjects are duly maintained, then the method may justify itself by its success as well as its intention. If he has assisted the people to reorganize their legislatures and to re-establish the machinery of local State government; though his method may be less regular than if an act of Congress had prescribed it, still it has permitted the people to feel their way back into the works and ways of loyalty, to exhibit their temper of mind and to "show their hands." Was it not better for the cause of free government, of civil liberty, to incur the risk of error in that direction than of error in the opposite one? It has proved that the national government is not drunk with power; that its four years' exercise of the dangerous rights of war has not affected its brain. It has shown that the danger of despotic centralism or of central despotism is safely over.

Meanwhile, notwithstanding the transmission of the seals to State magistrates chosen by vote in the States themselves; notwithstanding the inauguration, in fact, of local legislatures, the powers of war remain. The commander-in-chief has not abdicated. His generals continue in the field. They

still exercise military functions, according to the belligerent rights of the nation. What the commander-in-chief may hereafter do, whether less or more, depends I presume in great measure on what the people of the rebel States may do or forbear doing. I assume that, until the executive and legislative departments of the national government shall have reached the united conclusion that the objects of the war have been fully accomplished, the national declaration of peace is not and cannot be made.

The proceedings already had are only certain acts in the great drama of reorganization. They do not go for nothing; they were not unnecessary; nor do I approach them with criticism. But they are not the whole drama. Other acts are required for its completion. What they shall be depends in part on the wisdom of Congress to determine.

The doctrine of the President that—in the steps preliminary to reorganizing a State which is not and has not been theoretically cut off from the Union—he must recognize its own organic law antecedent to the rebellion, need not be contested. I adhere quite as strictly as he to the logical consequences of that doctrine. I agree that the rebel States ought to come back again into the exercise of their State functions and the enjoyment of their representative power,—by the action and by the votes of the same class of persons, namely, the same body of voters or tenants of political rights and privileges, by the votes, action or submission of whom, those States were carried into the rebellion.

But yet it may be at the same time needful and proper, in the sense of wise statesmanship, to require of them the amplification of certain privileges, the recognition of certain rights, the establishment of certain institutions, the redistribution even of political power—to be by them accorded and

executed through constitutional amendments or otherwise—as elements of acceptable reorganization; and as necessary to the readjustment of political society in harmony with the new relations, and the new basis of universal freedom, resulting from the rebellion itself. If these things are found to be required by wise statesmanship, then the right to exact them, as conditions of restoring those States to the enjoyment of their normal functions, is to be found just where the nation found the right to crush the rebellion and the incidental right of emancipating slaves.

Now, distinctions between men as to their rights, purely arbitrary, and not founded in reason nor in the nature of things, are not wise, statesmanlike nor “republican,” in the constitutional sense. If they ever are wise and statesmanlike they become so only where oligarchies, privileged orders, and hereditary aristocracies are wise and expedient.

There are two kinds of republican government however known to political science, namely: aristocratic republics and democratic republics, or those in which the government resides with a few persons or with a privileged body, and those in which it is the government of the people. I cannot doubt that nearly all men are prepared to admit that our governments—both State and national—are constitutionally democratic, representative republics. That theory of government is expressly set forth in the Declaration of Independence. The popular theory of government is again declared in the preamble to the federal constitution. The federal government is elaborately constructed according to the theory of popular and representative government and against the aristocratic theory in its distinguishing features. And in divers places the federal constitution in set terms presupposes the democratic and representative character of the governments

of the States; for examples, by assuming that they have legislatures, that their legislatures are composed of more than one body, and by aiming to prevent even all appearance of aristocratic form, by prohibiting the States from granting any title of nobility. In his recent message to Congress President Johnson affirms "the great distinguishing principle of the recognition of the rights of man" as the fundamental idea in all our governments. "The American system," he adds in the same paragraph, "rests on the assertion of the equal right of every man to life, liberty, and the pursuit of happiness, to freedom of conscience, to the culture and exercise of all his faculties."

But is it pretended that the idea of a government of the people and for the people in the American sense is inclusive of the white race only or is exclusive of men of African descent? On what ground can the position rest?

The citizenship of free men of color, even in those States where no provision of law seemed to include them in the category of voters, has been frequently demonstrated, not only as a legal right but as a right asserted and enjoyed.

Nay more; both under the confederation and in the time of the adoption of the constitution of the United States all free native-born inhabitants of the States of New Hampshire, Massachusetts, New York, New Jersey, and North Carolina, though descended from African slaves, were not only citizens of those States but such of them as had the other necessary qualifications possessed the franchise of electors on equal terms with other citizens. And even Virginia declares in her ancient Bill of Rights, "that all men having sufficient evidence of permanent common interest with and attachment to the community have the right of suffrage." Wherever free colored men were recognized as free citizens or subjects but

were nevertheless not fully enfranchised, I think the explanation is found, not in the fact of their mere color nor of their antecedent servitude, but in the idea of their possible lapse into servitude again—of which condition their color was a badge and a continuing presumption. The policy of some States seems to have demanded that slavery should be the prevailing condition of all their inhabitants of African descent. In those States the possession of freedom by a colored man has therefore been treated as if that condition was only exceptional and transient. But wherever the policy and legislation of a State were originally dictated by men who saw through the confusion of ideas occasioned by the presence of slavery, there we are enabled to discern the evidence of an unclouded purpose (with which the American mind always intended to be consistent), namely: The maintenance of equality between free citizens concerning civil rights and the distribution of privileges, according to capacity and desert, and not according to the accidents of birth. And now that slavery has been rendered forever impossible within any State or Territory of the Union by framing the great natural law of universal freedom into the organic law of the Union, all the ancient disabilities which slavery had made apparently attendant on African descent must disappear.

Whatever may be the rules regulating the distribution of political power among free citizens in the organization of such a republican government as that guaranteed by the national constitution, descent in either the evidence of right nor the ground of disfranchisement.

The selection of a fraction or class of the great body of freemen in the civil State to be permanently invested with its entire political power (selected by mere human predestination irrespective of merit),—that power to be incommunicable to

the freemen of another class—the two classes, of rulers and ruled, governors and governed, to be determined by the accident of birth, and all the consequences of that accident to descend by generation to their children,—seems to me to be the establishment of an hereditary aristocracy of birth, the creation of a privileged order, inconsistent both with the substance and the essential form of American republicanism, unstatesmanlike, and unwise; and (in the rebel States) in every sense dangerous and unjust.

To demand a certain qualification of intelligence is eminently safe and consists with the interests and rights of all. It is as reasonable as to require a certain maturity of age. They who are the representatives of the political power of society, acting not only for themselves but also for the women and children, who, too, belong to it; representing the interests of the wives, mothers, sisters, daughters, infant sons, and the posterity of us all, ought to constitute an audience reasonably competent to hear. And since the congregation of American voters is numbered by millions, and covers a continent it cannot hear with its ears all that it needs to know; but must learn intelligently much that it needs to know through the printed page and by means of its eyes. The protection of the mass of men against the deceptions of local demagogues and against their own prejudices hereafter—as well as the common safety—calls for the requirement of the capacity to read the mother tongue as a condition of coming for the first time to the ballot-box. Let this be required at the South and immediately the whole Southern community will be aroused to the absolute necessity of demanding free schools and popular education. These are more than all things else to be coveted, both for the preservation of public liberty and for the temporal salvation of the toiling masses of our

own Saxon and Norman blood, whom alike with the African slave the oppression of ages has involved in a common disaster.

I think the wisest and most intelligent persons in the South are not ignorant of the importance of raising the standard of intelligence among voters; nor of extending the right to vote so as to include those who are of competent intellect notwithstanding the recent disability of color. There is evidence that they are not unwilling to act consistently with the understanding, example, and constitutional precedents of the fathers of the Republic; consistently with the ancient practice of the States, coeval with the organic law of the nation established by the very men who made that law, who used and adopted the very phrase, "a republican form of government," of the meaning of which their own practice was a contemporary interpretation. But if the conquering power of the nation, if the victorious arm of the Union is paralyzed; if the federal government, standing behind the ramparts of defensive war, wielding its weapons both of offence in the hour of struggle and of diplomacy in the hour of triumph, is utterly powerless to stipulate for the execution of this condition; then I confess I do not know how the best and wisest in the South will be enabled, deserted and alone, to stand up on its behalf against the jealousy of ignorance and the traditions of prejudice.

If the measures I have attempted to delineate are found to be impracticable then Congress has still the right to refuse to the rebel States readmission to the enjoyment of their representative power until amendments to the federal constitution shall have been obtained adequate to the exigency. Nor can the people of the rebel States object to the delay. They voluntarily withdrew from Congress; they themselves