

REMOVAL OF DISABILITIES IMPOSED BY THE FOURTEENTH ARTICLE OF THE CONSTITUTION.

MAY 24, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. JENKINS, from the Committee on the Judiciary, submitted the following

REPORT.

[To accompany S. 4578.]

The Committee on the Judiciary have had under consideration (S. 4578) an act to remove all disabilities imposed by the fourteenth article of the Constitution, and after a careful consideration report the same back with amendments, with recommendation that when so amended the same do pass.

Amend by changing the title so as to read as follows:

To remove all disability imposed by section 3 of the fourteenth amendment to the Constitution of the United States.

Further amend by striking out all after the enacting clause, and insert as follows:

That the disability imposed by section 3 of the fourteenth amendment to the Constitution of the United States heretofore incurred is hereby removed.

Section 3 of the fourteenth amendment to the Constitution of the United States is as follows:

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

The fourteenth amendment to the Constitution of the United States was proposed by Congress and submitted to the ratification of the States by the act of June 16, 1866. On July 20, 1868, Mr. Seward, then Secretary of State, after receiving notice of ratification by the reconstructed legislatures, issued his proclamation announcing that the fourteenth amendment to the Constitution of the United States was in force, and shortly thereafter Congress declared the same a part of the Constitution.

Section 3 of the amendment with which the committee have to deal in effect provides that "any person who had previously taken an oath as a Member of Congress, or as an officer of the United States, or as a

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member of any State legislature, or as an executive or judicial officer of any State to support the Constitution of the United States, who engaged in insurrection or rebellion against the same or gave aid or comfort to the enemies thereof should not be a Senator, or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, but Congress might by two-thirds vote of each House remove such disability." Thus five classes of persons could be placed under disability by the amendment in question. No doubt the immediate object of the amendment was to prevent the return to public life of some of the leaders of the rebellion, and no doubt Congress was of the opinion that the security of the Government required that the persons described in the third section should, for the time being, be excluded from Congress, from the electoral college, and from all civil and military offices, State and Federal.

But that it was not intended that this exclusion should be permanent or universal is evidenced by the provision that "Congress may by a vote of two-thirds of each House remove such disability." The amendment therefore, while it excluded from the rights and privileges named therein certain classes of citizens in the Southern States, left it to the discretion of Congress to remove the disability imposed in any and all cases where it was satisfied that it might be done with safety to the interests of the country. In his *Twenty Years of Congress*, Mr. Blaine makes the following interesting statement upon the operation of this section:

The political disabilities imposed by the third section of the fourteenth amendment to the Constitution affected large classes in the Southern States. When the amendment was under discussion in Congress, the total number affected was estimated at 14,000, but subsequently it was ascertained to be much greater. It included not only those who had been members of Congress or held any office under the United States, but all those who had been executive and judicial officers or members of the legislatures in the revolted States. The proclamation making its ratification known to the people was issued by Secretary Seward on the 20th of July, 1868, but in advance of this formal announcement Congress, then in session, began to relieve the persons affected.

The first act was for the benefit of Roderick R. Butler of Tennessee, Representative elect to the Fortieth Congress. It was approved on 19th of June, 1868, and permission was given him to take a modified oath. On the 25th of June amnesty was extended to about one thousand persons, and during the remainder of Congress some five hundred more were relieved from political disability. In the Forty-first Congress the liberality of the majority did not grow less, and during the two years three thousand three hundred participants in the rebellion, among them some of the most prominent and influential, were restored to the full privileges of citizenship, the rule being in fact that everyone who asked for it either through himself or his friends was freely granted remission of penalty.

At the opening of the Forty-second Congress it was evident that the practice of removing the disabilities of individuals would not find favor as in the two preceding Congresses. There was a disposition rather to classify and reserve for further consideration the really offending man and give general amnesty to all others. To this end, Mr. Hale, of Maine, on the 18th of April, 1871, moved to suspend the rules in order that a bill, introduced by him April 10, 1871, might be passed, removing legal and political disabilities from all persons who had participated in the rebellion, except the following classes:

First. Members of the Congress of the United States who withdrew therefrom and aided the rebellion.

Second. Officers of the Army and Navy who, being above the age of 21 years, left the service and aided the rebellion.

Third. Members of the State conventions who voted for pretended ordinances of secession.

It was further provided that before receiving the benefit of this act each person should take an oath of loyalty before the clerk of a United States court or before a United States commissioner. Debate was not allowed, and the bill passed by more than the requisite two-thirds—ayes 134, nays 46.

When the bill came up before the Senate, Mr. Robertson, of South Carolina, attempted to put it on its passage, but objection being made it was referred under the rule and postponed for the session.

At the second session of this Congress the bill of Mr. Hale was taken up. A motion by Senator Sherman was made to amend it by the insertion of his civil-rights bill.

This amendment was adopted by the casting vote of the Vice-President February 9, 1872, and the bill as thus amended was defeated—yeas 33, nays 19.

In his message of December 4, 1871, President Grant urged the removal of disabilities in the following language:

More than six years have elapsed since the last hostile gun was fired between the armies then arrayed against each other, one for the perpetuation, the other for the destruction of the Union. It may well be considered whether it is not now time that the disabilities imposed by the fourteenth amendment should be removed; that amendment does not exclude the ballot, but only imposes the disability to hold office upon certain classes. When the purity of the ballot is secure majorities are sure to elect officers reflecting the views of the majority.

I do not see the advantage or propriety of excluding men from office merely because they were before the rebellion of standing and character sufficient to be elected to positions requiring them to take oaths to support the Constitution and admitting to eligibility those entertaining precisely the same views but of less standing in their communities. It may be said that the former violated an oath while the latter did not. If they had taken this oath, it can not be doubted they would have broken it, as did the former classes. If there are any great criminals distinguished above all others for the part they took in opposition to the Government they might, in the judgment of Congress, be excluded from such an amnesty. This subject is submitted for your careful consideration.

On January 15, 1872, Mr. Hale moved to suspend the rules and put upon its passage an amnesty bill similar in all respects to his previous bill mentioned by Mr. Blaine, except that it omitted the third class excepted from amnesty in the first bill. This bill was passed by the House—ayes 171, nays 31; action was taken upon it in the Senate May 9, 1872, when it was amended by the casting vote of the Vice-President, and was lost in its passage by a vote of 32 yeas to 22 nays May 10, 1872. On May 13, 1872, Mr. Butler of Massachusetts reported from the Judiciary Committee a bill to remove all legal and political disabilities imposed by the third section of the fourteenth amendment to the Constitution of the United States from all persons whomsoever except Senators and Representatives of the Thirty-sixth and Thirty-seventh Congresses, officers in the judicial, military, and naval service of the United States, heads of departments and foreign ministers of the United States. In reporting this bill Mr. Butler said:

The House instructed the Committee on the Judiciary to report an amnesty bill containing the names of all the persons for the removal of whose disabilities application has been made to Congress. The other day (April 26) the Committee reported such a bill (H. R. 2564) containing some 15,000 or 16,000 names. The bill was ordered to be printed and recommitted. Since then amendments have been proposed including some twenty-five pages of additional names. I have also been instructed by the committee to report a general amnesty bill instead, which I now do.

On the same day, the House, under a suspension of the rules, passed both of these bills by the necessary two-thirds vote:

The general amnesty bill (H. R. 2761) was subsequently passed by the Senate May 21, 1872, only two votes being recorded against it, and it was approved by President Grant on the following day.

On June 1 President Grant issued his proclamation directing the district attorneys of the United States to dismiss all proceedings in quo warranto which had been instituted against all persons relieved of disability by the provisions of this act. In his message to Congress of December 1, 1873, President Grant again urged the subject of general amnesty. He said:

I renew my previous recommendation to Congress for general amnesty. The number engaged in the late rebellion yet laboring under disability is very small, but enough to keep up a constant irritation. No possible damage can accrue to the Government by restoring them to eligibility to hold office.

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In response to this appeal, Mr. Maynard, of Tennessee, under instructions from the Committee on Rules, offered a bill (H. R. 472) granting general amnesty and prescribing an oath of office. The first section of this bill removed all disabilities imposed by section 3 of the fourteenth amendment to the Constitution. The second section of the bill repealed the act of July 2, 1862, prescribing what is known as "the ironclad oath," and provided that hereafter any person elected to any office of honor or profit under the Government of the United States either in the civil, military, or naval departments of the public service, shall, before entering upon the duties of such office and being entitled to any of the salary or other emoluments thereof, take and subscribe the oath prescribed by the act of July 11, 1868, entitled "An act prescribing an oath of office to be taken by persons from whom legal disabilities shall have been removed."

This bill was passed the same day under a suspension of the rules by a vote of 141 ayes and 29 nays.

On December 15, 1875, a similar bill was introduced by Mr. Randall, of Pennsylvania. To this an amendment was offered January 6, 1876, excluding Jefferson Davis from the provisions of the bill, which evoked an acrimonious debate, and the bill was defeated by a vote of 175 ayes and 97 noes. On January 10, 1876, the debate was continued on the bill introduced by Mr. Randall, during the course of which Mr. Randall took occasion to say: "Twice have Republican Houses passed this bill and twice has it been strangled in the Senate." Mr. Randall's language is to be found on page 323 of the Record of the date mentioned.

Mr. Blaine took part in the debate, saying: "It has been variously estimated that this section at the time of its original insertion in the Constitution included somewhere from 14,000 to 30,000 persons. As nearly as I can gather the facts of the case, it included about 18,000 men in the South."

And further on, continuing the subject, Mr. Blaine said:

I have had occasion by conference with the Department of War and of the Navy and with the assistance of some records which I have caused to be searched to be able to state to the House, I believe with more accuracy than it has ever been stated heretofore, just the number of gentlemen in the South still under disability. Those who were officers of the United States Army, educated at its expense at West Point, and who joined the rebellion and are still included under this act number, as nearly as the War Department can figure it up, 325; those in the Navy about 295; those under the other head, Senators and Representatives of the Thirty-sixth and Thirty-seventh Congresses, officers in the judicial service of the United States, heads of departments, and foreign ministers of the United States, make up a number somewhat more difficult to state accurately, but smaller in the aggregate. The whole sum of the entire list is about—it is probably impossible to state it with entire accuracy, and I do not attempt to do that—750 now under disabilities.

Your committee are pleased to rely upon the facts and arguments made in behalf of this bill by two of the greatest men of their party and times—General Grant and Mr. Blaine.

It will take more time than your committee have at its disposal to ascertain just how many are at this time affected by the amendment in question. We were advised that we would have to communicate with at least the executive branches of government of all of the reconstructed States, and they in turn would have to communicate with parties scattered throughout the various States; and the committee are of the opinion that it is entirely immaterial whether there are any now affected by the disability, and, if any, how many, and have confined their examination to the disability imposed by the fourteenth amendment.

In support of the removal of the disability imposed by the amend-

ment under consideration, it is useless at this time to discuss the situation that led up to the adoption of this important amendment.

It is to be regretted that it was ever in the mind of any person that such extreme measures were necessary. Years have rolled by since that great struggle closed, and the American people look at public matters growing out of the war of 1861 in calmer moments when their judgment can be trusted and are willing to do exact and equal justice, and are practically unanimously of the opinion that this bill pass and the disability wholly removed from the statute book.

Long since the people of the reconstructed States became reconciled to the restoration of their States to their constitutional relations to the Union, and from the close of the war there was never any doubt in the minds of the patriotic, liberty-loving union people of the United States but that the people of the reconstructed States wanted to return to their political duty as citizens of a common country and do their best to make this nation all our forefathers intended it should be, but were prevented from making it by causes forcing themselves upon the convention. We are now in truth and in fact a reunited people, a nation composed of the several States of the Union, and the time has come in American history when the distinction between Federal and State rights should no longer exist, but all should be classed as citizens of the United States, cooperating for the common good, recognizing the just powers of the nation and the constitutional rights of the several States without any intention to impair the one or invade the other.

The seeds of the war were sown when the convention framed the Constitution under which we are now living, and it was only a question of time when the growth would be ready for the sickle, and the war was simply reaping the harvest. To the American people, the war was worth the sacrifice. It accomplished at a terrible cost of life and money what could not be realized by any other means. The nation now has a united patriotic people to sustain its life and further its progress; imbued with most excellent elements of patriotism and civil liberty and the future of the nation is assured with the simple requirement only that the people be law abiding. Human law is not necessary for the cementing of the North and the South. They are truly one people.

While the time is opportune for kindly and considerate acts, the pending war with Spain was not necessary to bring together the people of the North and the South. The universal good feeling so patriotically expressed wherever the American flag floats is an indication that the people not only are but for some time have been united. The nation needs the unison, not only to do battle with foreign foes, but for the uplifting and building up of great interests for the betterment of the people. Great questions of vital importance to the people yet have to be settled, requiring patriotism, intelligence, forbearance, and statesmanship.

Much work remains to be done. These questions can not be settled as long as the people are sectionally divided. Sectionalism must never return. It is our duty to-day to do all we possibly can to prevent it. Earnest efforts must be continued for the upbuilding of the nation for the common good of all. Keeping steadily in mind the equality of the States and equality of all before the law, allowing each elector and each State to exercise constitutional rights without force or denial, answerable to a higher power and intelligent surroundings, peace and prosperity will be with us as a nation.

It is gratifying to know that so many on both sides of that great conflict have been permitted to live long enough to learn that all of the

bad feeling engendered by the war has passed away. In no other country on the globe could such conditions arise. Unhappily divided as we were with a bitter warfare of over four years, a large part of our beloved country devastated, feeling strong, one section arrayed against the other; so that the whole country was involved, loss of life and property great, all tending to show how intensely bitter was the feeling between the two great sections of our nation, yet when the conflict ended, simultaneous with the laying down of arms and return of peace, word went forth that henceforth the people of the United States must and would be brethren. The glad tidings were indorsed by hearty handshakes by many of the contending forces and with softened feeling in the breasts of the two great armies. The survivors of them have faithfully kept the promise and have been the friends that only brave men can be. The excellent feeling prevailing teaches us that it is far better and more important to restore fraternal relations throughout the country than to stand on the strict letter of the law.

A little over thirty years have gone by since the curtain fell on the scenes of the civil war of 1861, and to-day many of those who were once in rebellion against the National Government are now in the same column marching side by side with those they once so bitterly opposed; marching under the flag of the Union; offering their life's blood upon the altar of their country in the defense of the nation they were once contending against. To-day loyalty is so universal throughout our beloved country that one can not tell whether the people come from the South or from the North. Certain it is that no political disability should rest upon any person or find any repose in the statutes of this country.

The committee are satisfied that the survivors of those once engaged in rebellion against this Government are loyal to the Union, and that it would be a fitting act before they all pass away, and while some of them are left, to remove the disability imposed by this amendment. The entire country feel that the nation to-day needs the assistance of all our citizens. It is best for all to feel an interest in the Government, and nothing should be said or done or allowed to remain that will in the least disturb the good feeling abroad in the land. What a glorious spectacle in so short a time—the North and South, once so fiercely divided, reunited. The North willing to remove all political disabilities, wipe out all sectional feeling, and the South ready to defend the nation with their lives and their money. In the pending conflict forced upon us, it is apparent that the South affected by the amendment are loyal and earnest in their support of the Government; that they are ready to furnish all the men and means necessary to make this nation successful.

The parting words of General Grant have come true. Nothing more beautiful can be said in support of the passage of this bill than was written in the summer of 1885 by the victorious general of the armies of the United States when he sat in the chamber of death, confronting with the imperturbable character of his nature the last great adversary. He had but a few hours, or at most a few days, to live. Realizing his condition in discussing what should be done and what would be done, he clutched his pen with dying fingers and left this inspiration for his countrymen.

I feel that we are on the eve of a new era, when there is to be a great harmony between the Federal and the Confederate. I can not stay to be a living witness to the correctness of this prophesy, but I feel that it is to be so.

We certainly can make no mistake when we follow the dying words of our great leader, Grant.

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Your committee believe that they but voice the sentiment of the people of this nation when they unanimously say, let the disability be removed.

The safety and interests of the country do not require the disability to be in force.

To remove the same in accordance with the unanimous voice of the people is but a simple act of justice to the South as an expression of confidence by the North in the unquestionable loyalty of the Southern people.

