SPEECH

OF

HON. W. T. WILLEY,

OF WEST VIRGINIA,

ON

SUFFRAGE IN THE DISTRICT OF COLUMBIA;

DELIVERED

IN THE SENATE OF THE UNITED STATES, JUNE 27, 1866.

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SUFFRAGE IN THE DISTRICT OF COLUMBIA.

The Senate having under consideration the bill (S. No. 1) to regulate the elective franchise in the District of Columbia, Mr. WILLEY offered the following amendment:

In all elections to be held hereafter in the District of Columbia, the following described persons, and those only, shall have the right to vote, namely: first, all those persons who were actually residents of said District and qualified to vote therein at the elections held therein in the year 1865, under the statutes then in force; second, all persons residents of said District who have been duly mustered into the military or naval service of the United States during the late rebellion, and have been or shall hereafter be honorably discharged therefrom; third, male citizens of the United States who shall have attained the age of twenty-one years, (excepting paupers, persons *non compotes mentis* or convicted of an infamous offense,) and who, being residents of the ward or district in which they shall offer to vote, shall have resided in said District for the period of one year next preceding any election, and who shall have paid the taxes assessed against them, and who can read, and who can write their names.

Mr. WILLEY said:

Mr. PRESIDENT: The discussions which the bill now under consideration has excited, both in Congress and in the country, have embraced a wider range of thought and argument than was strictly in order. More has been said and written upon the propriety or impropriety of bestowing the elective franchise upon the negro in the States lately in rebellion than upon the proposition directly involved in the bill itself. In the latter case there can be no doubt about the power of Congress. Our authority to pass the bill will not, I suppose, be controverted. In the former case there can be as little doubt, in my judgment, that Congress has not the power by legislative enactment to confer the right of suffrage on any class of people, black or white, within the jurisdiction of any of the States. I know that it is said that the Constitution provides that "the United States shall guaranty to every State in this Union a republican form of government," and that no form of government can be republican which withholds the right of suffrage from a class of persons simply on account of their color. But this very clause of the Constitution, it will be observed, does not clothe Congress positively with the power or the duty of regulating the qualifications of electors in the States. The most liberal construction which can be placed upon it, favoring the idea advanced, is, that Congress may withhold its recognition of a State, or refuse the admission of a State, until it shall be satisfied that the government of the State is republican in form. But it seems to me it is now too late to raise the question.

The advocates of this construction of the Constitution have been very remiss, to say the least of it, if the power which they claim has really been conferred on Congress. They have allowed the infraction of what they regard as a fundamental principle of republican government by almost every State in the Union to remain unchallenged and unredressed until the present time. Sir, nearly every State in the Union, at some period of its history, has excluded persons from the elective franchise in consequence of race and color; and that exclusion remains in full force now in a large majority of the States. And, sir, the question may well be raised whether an interpretation of this clause of the Constitution which would clothe Congress with authority to regulate the right of suffrage in the States would not itself be a destruction of republican government. Suffrage is the fundamental principle of republican government. Therefore, if you deny the

right of a State to regulate this franchise for itself, how can it be truly republican in fact? But without further remark in this behalf, I respectfully submit that it is only necessary, in order to refute this latitudinarian idea of congressional power, to quote another plain provision of the Constitution itself. It is as follows:

"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 electors of the most numerous branch of the State Legislature."

It seems to me that this clause excludes all rational controversy respecting the power of Congress to regulate the qualifications of electors by statutory enactment. And, in my judgment, the wisdom of thus leaving with the States the right of regulating suffrage is as manifest as the authority conferred upon them to do it is plain and undeniable. It avoids all conflict between the nation and the respective States as to the qualifications of the electors of State officers and Federal officers, and thus secures more harmonious relations between the States and the national Government. Besides, the States must necessarily be the better judges of the limits to which suffrage may be judiciously extended therein, having due regard to the public welfare and safety; for it is quite obvious that it might well be bestowed upon a class of voters in one State, when it might be imprudent and dangerous to give it to the same class in another State. For instance, the great State of New York may receive little detriment from the predominating proportion of vicious and dissolute population in the district of the "Five Points," but if the proportion which that population bears to that district existed all over the State it might well suggest much more stringent restrictions upon the qualifications of voters than the constitution of that State now contains. Of the necessity of such limitations the States respectively must be better able to judge than the nation at large. How could we know what the welfare and safety of California or Oregon might require in this respect? But on this question, in regard both to power and to expediency, hear the contemporaneous expositions of the framers of the Constitution.

Mr. Madison, in No. 52 of the Federalist, says:

"The first view to be taken of this part of the Government relates to the qualifications of the electors and the elected.

"Those of the former are to be the same with those of the electors of the most numerous branch of the State Legislatures. The definition of the right of suffrage is very justly regarded as a fundamental article of republican government. It was incumbent on the Convention, therefore, to establish and define this right in the Constitution. To have left it open for the occasional regulation of the Congress would have been improper, for the reason just mentioned. To have submitted it to the legislative discretion of the States would have been improper for the same reason, and for the additional reason that it would have rendered too dependent on State governments that branch of the Federal Government which ought to be dependent on the people alone. To have reduced the different qualifications in the different States to one uniform rule would probably have been as dissatisfactory to some of the States as it would have been difficult to the Convention. The provision made by the Convention appears, therefore, to be the best that lay within their option. It must be satisfactory to every State, because it is conformable to the standard already established or which may be established by the State itself. It will be safe to the United States, because, being fixed by the State constitutions, it is not alterable by the State governments, and it cannot be feared that the people of the States will alter this part of their constitutions in such a manner as to abridge the rights secured to them by the Federal Constitution."

Mr. Hamilton, in No. 60 of the Federalist, says:

"The qualifications of the persons who may choose or be chosen, as has been remarked upon another occasion, are defined and fixed in the Constitution, and are unalterable by the Legislature."

It is my opinion, therefore, that the advocates of congressional intervention to regulate the right of suffrage in the States, whether loyal or disloyal, by mere legislative enactment, have no warrant for the authority they claim in the Constitution, but are seeking to exercise a power expressly prohibited by the Constitution.

If the discussion had been confined to the operation of this bill, these remarks would hardly be pertinent. But the question has been discussed in its bearing upon the whole country, and it is avowed that what we do upon this measure is designed to have a bearing on the general policy of the nation. But the power of Congress to pass this bill is, I suppose, undeniable. Congress has complete jurisdiction over the District of Columbia; and here it is only a question of justice and expediency.

If it had been left to my judgment, Mr. President, I should have said that whether this measure was in itself wise or unwise this was hardly a proper time to introduce it. We are in the midst of mighty events. The order of society all around us is disorganized. There is a painful sense of uncertainty filling every heart and mind. New, vital, and most difficult

questions are thrust upon us, which must be decided. Anything not essential in itself, or very material to the welfare of the nation, or a considerable part of the nation, if it is calculated to complicate our difficulties, or inflame party passions or sectional animosities, had better be left, it appears to me, to a more propitious hour. It is true that this bill is limited to this District in its operation. Nevertheless it has and is designed to have a national significance. The moral influence of our action here is intended to reach every State. But, wisely or unwisely, the question is before us and we must meet it. And, sir, in taking my position to-day I do it with the understanding that it may possibly terminate my connection with this body and with public affairs.

But, sir, acting in obedience to the convictions of my judgment, I shall leave the result, so far as it shall affect me personally, to take care of itself. If I am right the truth sooner or later will vindicate my course. If I am wrong, I shall at least have the consolation of knowing that I erred from no selfish motive. I will not, I cannot now, whatever may be the consequences, shrink from what I trust I may be pardoned for saying, has been the sacred rule of my life—a conscientious adherence to whatsoever I believe to be just and true. Therefore reiterating my belief that Congress has no power to interfere with the right of suffrage in any State; that I shall oppose all congressional legislation assuming to exercise any such power; and recalling the fact that the bill under consideration is confined in its legal operation to the District of Columbia alone, I solicit the attention of the Senate to some further remarks on the principles and policy involved in it. In doing so I wish to treat the question fairly, and so to deserve a candid and impartial hearing here and elsewhere.

Mr. President, I do not concur in the opinion so boldly avowed by some Senators that the proposition to extend the right of suffrage to the African race in this District is so plainly right as to be unquestionable. I regard it as one of the most difficult and important questions ever submitted to the consideration of Congress. It involves the future welfare of two races here and elsewhere, and perhaps the very existence of one of them on this continent. It is not, in my judgment, consistent with a wise and enlightened statesmanship to seek to evade its embarrassments by mere emphatic declarations that its propriety is incontrovertible. There is no argument in simple asseverations, however vehemently made or dogmatically expressed.

This question of suffrage has been discussed with great ability and research during the past few weeks. History, philosophy, law, and metaphysics have been laid under liberal contributions to illustrate it. The debate has been adorned with great eloquence and learning on both sides of the Chamber.

Mr. President, I shall be unable to commend my views to the Senate by any of these attractive and fascinating adjuncts. My aim shall be to present the conclusions which are warranted by plain, common sense. And, sir, I begin with the proposition, which I believe has not been seriously controverted, that suffrage is not a natural or absolute right. If it were so the controversy would be at an end; for I think it would be hard to demonstrate that we would be justifiable in withholding from any member of society what he had a natural right to enjoy.

But, sir, it seems to me that the order and economy of divine Providence plainly indicate that citizenship must necessarily be subject to limitations. The universal law of self-defense, belonging to communities no less than to individuals, involves the principle of restricted suffrage. If we look abroad over the earth we cannot fail to see, from its physical structure and geographical divisions, that distinct communities and separate nationalities are inevitable. It is divided into continents and islands and zones and sections, separated by oceans and seas and mountain ranges, indicating a most palpable providential design of distinct and independent communities. Then there are radical differences in systems of religion, forms of civilization, manners, customs, language, and race. Some are pagans, some are Christians, some are Jews, and some are savages. It would, therefore, be impossible, even if the physical barriers referred to were out of the way, to extend one safe, consistent, and useful empire over the entire globe, embracing so many heterogeneous elements of

society. Different nationalities do, therefore, seem to be absolutely necessary, and to be according to the divine will; and therefore they must be warranted by natural and absolute right, and consequently include the power to ordain and enforce whatsoever regulations shall be deemed essential to preserve their peace and integrity and promote their happiness and prosperity. On this principle, I imagine, our naturalization laws are based; and these laws imply that no person belonging to any one of these communities has the right to incorporate himself into the body-politic of any other community without its consent and without complying with such conditions as shall be prescribed for his admission. On this foundation, too, has been erected the whole superstructure of international law. Every nation or community, therefore, has the absolute right to regulate its own affairs and govern its own people. In doing so it may not, however, rightfully exercise this power arbitrarily or in derogation of the principles of justice and equity toward all or toward any of its people.

Now, sir, one fundamental and most obvious principle necessary to be observed in the organization of such community is homogeneity of condition, whether it relates to religion, to the form or degree of civilization, to distinctions of race, or to anything else; because upon this may depend its welfare, its peace, and, indeed, the perpetuity of its existence. And so when an independent nation has been organized, it would seem to be a logical sequence of the premises enunciated that that nation has thereafter a perfect right to say who shall or who shall not be introduced into its citizenship; and therefore no individual, class of individuals, or race, not originally composing a part of it, has any natural or absolute right to be enfranchised as a part of it against its consent or on conditions other than those it may prescribe. Indeed, this is implied in the cherished maxim of our American institutions, that all just government is derived from the consent of the governed; for this implies that Government is a compact between the parties to it, and to be just and complete it must include the consent of all the contracting parties.

It follows from these considerations that whatever would seriously disturb the harmony of the political organism of the State or imperil its welfare and integrity may be properly excluded. And here, sir, I must be allowed to remark that there can be nothing more likely to disturb the peaceful relations of society than caste or distinction of races, especially when those distinctions are as marked as those belonging to the Anglo-Saxon and the African. Sir, I repeat it, that it is vain as it is unwise to attempt to underrate the peril of negro enfranchisement. Sir, we find impressive admonitions on almost every page of history against the evils of incorporating different races, religions, and civilizations into the same national organization. If the Senator from Massachusetts had brought the same learning and research to the examination of the relations which this thought bears to the actual history and condition of the nations of the earth which he did to the definition of what constitutes republican government a few days ago, what an instructive lesson he would have taught us! Sir, may we not find a solution of the problem of the long-protracted anarchy and insurrectionary condition of Mexico in the heterogeneous character of its population? And if so, was not Louis Napoleon indebted for his opportunity of violating the traditional policy of the United States and humiliating us as a nation by the introduction of European imperialism on this continent to these same Mexican disorders? And what was our own late sad and sanguinary war but a rebellion instigated by causes growing out of the existence of a foreign race in this country? And how does England maintain her authority to-day over the castes and races in her eastern possessions? Not by law or by the consent of the people, but by the sword.

Mr. President, I do not suppose there is a Senator here, not even the Senator from Massachusetts, [Mr. SUMNER,] who would be willing, as an original proposition, to consent to the introduction of the negro race into this country in any considerable numbers to become citizens. And why? Because he would wish to avoid the dangers arising from the contrariety of races in the same body-politic. His philosophic mind, enlightened by all the history of the past, would enable him to foresee bloody

scenes of revolution like those which have just attested in our own age and land the sad consequences of introducing different races into the same community. But then, sir, the negro is here; here without any fault or will of his own, and by no fault or will of ours. Four millions of his race are here, and we cannot help it. What are we to do? Say there is no difficulty in the situation of affairs and shut our eyes upon the perils that surround us? Sir, I do not believe either in the policy or the propriety of discussing this great national question after the manner of an advocate at the bar or a partisan on the hustings, seeking to make the most of the side of the case he espouses. The obligations of the Senator rise above this; and if we would comprehend our duty and discharge it intelligently, we must survey the question in all its bearings. And now, sir, having made these general observations, and having, as I believe, fairly stated the general principles of law and policy applicable to the proposition under consideration, so as to give to those who deny the right or expediency of negro enfranchisement the full benefit of all they can logically or lawfully claim in support of their position, I proceed in my examination of the bill before the Senate. My only desire is to ascertain what is true in itself, just to the negro, and safe for the country.

Mr. President, it is useless now to discuss the propriety or impropriety of the abolition of slavery in the United States. The deed is done. It is an accomplished fact. It is irreversible; and because it is irreversible it affords a strong presumpton that it must be right. No Senator, I imagine, would assert that he would reëstablish slavery in this country if he could. No Senator will contend that the white race in this country is not in a better condition without slavery than with it. Whether gradual emancipation would not have been the better mode, better for the master and better for the slave, it is now too late to determine. It is well known that Mr. Lincoln would have preferred gradual emancipation. In this preference I concurred with him. It would, in my opinion, have prevented many of the sore evils which are now afflicting so many of the colored race. But the pressure of events, the exigencies of the war, and the madness of the slaveholders themselves, did not permit any such beneficent delay. At all events the deed is done; and four million human beings, lately slaves, are now free, forever free. For myself, I rejoice that it is so. I voted for the constitutional amendment, and thus aided in the accomplishment of the result. To this extent I am individually responsible for the result. The nation, through the means provided in its organic law, has ratified and confirmed the decree of universal emancipation. So the nation, too, is responsible for the great result. Does our duty cease here? I think not. The question still remains, what shall be done with the freedmen? I have always entertained the opinion that it would be better for the races to be separated, if it were practicable to separate them. But it is impracticable to do so at this time. Gradual emancipation might possibly have rendered deportation and colonization available. But this is impossible, even if it were desirable, under existing circumstances. We have not the means to do it. We cannot support the burden of increased public debt which any commensurate effort to do it would necessarily impose upon us. And if we had the pecuniary means, the moral and intellectual condition of the great mass of our colored population wholly disqualifies them for the duties and responsibilities involved in any separate colonial organization. They must undergo a century of moral, intellectual, and civil, if not political, tuition before they will be prepared for the high behests of self-government.

What, then, is the nation's duty to its freedmen; freed by our act, not their own? In relation to a certain class of its duties, I suppose there can be no difference of opinion among all enlightened, humane, and Christian statesmen. We owe to the freedman the guarantee of every civil right of man. He must be fully protected in the enjoyment of "life, liberty, and the pursuit of happiness." He must have the same rights in these respects that you or I have; and the securities and guarantees surrounding them must be as ample for him as they are for you or for me. To this extent he must be made equal before the law. Why should it not be so? This protection involves, on his part, obedience to the law; the same obedience that the white man renders. Enjoy-

ing the full benefit of this relation to civil government, he must also bear its burdens, the same burdens which the white man bears. He must pay taxes. He must render military service. He must work upon or pay for keeping in repair the public highways. He must, in short, respond to all the obligations and duties which rest upon the white man. Upon what principle of justice or equity, therefore, will it be said that he is not entitled to the same civil rights, privileges, and immunities as the white man? If he performs all the civil duties of the citizen, how can he be deprived of any of the civil rights of a citizen? Does the mere color of his skin constitute any rational disability? Surely not in the mind of any Christian statesman.

But aside from all these considerations of obligation and duty, it is clear that the welfare of both races, and of the nation, would be promoted by cheerfully and faithfully extending all civil rights and guarantees of civil rights to the freedman. While he remains here it is for our interest, no less than for his, that he should be elevated in character and capacity as speedily and to as great an extent as possible. But how can we rationally expect improvement in these respects, or in any respect, if, while he has the name of freedman, we withhold from him the privileges and immunities rightfully and logically belonging to that relation, and treat him, in fact, as if he were still a slave? Will he not sink under the helplessness and hopelessness of such a situation into a degradation deeper than that from which he has been wrested—a burden and a curse to the community where he dwells? And do we not here find a complete answer to the allegation so constantly and vehemently reiterated in our ears that the free negro will not labor and uniformly leads an indolent, vicious, and disreputable life? What motive had he in the slave States to do otherwise? But throw around him the protection and extend to him the privileges of the citizen, and he will be stimulated to industry, and will have some inducement to improve his condition. Let his manhood be recognized if you wish to develop it.

In reference to these suggestions, however, I suppose there will not be much controversy. But what is the logical inference from these statements? Can it be true that a class of men may be justly entitled to all the civil rights and privileges of the citizen, and still be wholly unworthy of all political rights? Is not the relation between civil and political rights intimate if not indissoluble? How can they be logically separated? Does not civil obligation imply political right unless some motive of the public welfare and safety intervenes to justify the exclusion? The fundamental principle of our political institutions is, that all rightful government must rest on the consent of the governed. If the freedmen are to be subject to the laws, are they not, therefore, entitled in justice and equity to some authority in the appointment of those who are to make the laws? There is another fundamental principle of American liberty involved in the question. It was the cardinal complaint of our revolutionary fathers that they were taxed without representation. Upon this issue they went to war. Upon this issue the revolutionary war was fought. How can we consistently tax the freedmen and wholly exclude them from representation? Upon what principle, I ask, can this be done? And upon what principle of justice or American liberty, I furthermore ask, can freedman be compelled to perform military service, and yet be excluded from having any voice in the Government which sends him to the field? Is he to be intrusted with the bayonet and not with the ballot? Is he worthy to die for his country, and yet necessarily unworthy of the elective franchise? I am not unmindful of the clamor with which these propositions are met. Do I propose, I shall be asked, to make the black soldier equal to the white soldier? The question is hardly worthy of a statesman, and is therefore, in this place, hardly worthy of a reply. The equality of the two races as soldiers is not at all involved in the issue I am discussing. But I do not mean to say that the colored soldier is equal to the white soldier. I do not believe that he is. Under the circumstances in which he is placed it is impossible that he should be. But if he is worthy of being a soldier at all is he not worthy of being a citizen and a voter? Should we fear to give the ballot to him who is ready to give his life for his country? His country, sir! He who is morally and intellectually quali-

fied to vote, and is denied the privilege, can hardly be said to have a country. He is virtually still a slave. Sir, we have seen the blood of the black man and the blood of the white man during the late terrible rebellion mingling undistinguishably together as a common libation to liberty on the altar of their country. Is not such a sacrifice sufficient to propitiate the favor of a magnanimous race, and to merit the boon of political enfranchisement? For myself, sir, I should be ashamed to deny it wherever there is capacity to appreciate it and use it discreetly, and where I have the right to bestow it.

Again, Mr. President, what is the legitimate effect on the *status* of the freedman of the constitutional amendment abolishing slavery? If he was not a citizen before that amendment took effect is he not now? According to the spirit of our institutions, if not according to the letter of our Constitution, it appears to me that he is. I can conceive of no intermediate state between slavery and citizenship among the natives of our soil and within our jurisdiction, unless there be an exclusion in express terms. Why were negroes born on our soil heretofore ruled not to be citizens? Was it simply because they were of African descent? I suppose not—no more than it would be competent to exclude on account of German descent or French descent. It was because the negro belonged to an enslaved race; it was on account of slavery; it was because their ancestors were brought to this country as chattels and not as persons. But slavery being now abolished, and all men born on our soil being now made free by our organic law, the reason of the original exclusion no longer exists. With the extinction of slavery, its incidents and disabilities are necessarily extinguished. I know it is said that the sole effect of the constitutional amendment was to release him from the control of his master—nothing more. But it seems to me that this is a narrow view of the subject. Freedom is a fact if it is anything—a reality, not a mere shadow without substance.

It was Kossuth, I believe, who said "liberty is liberty, as God is God." But if the effect of constitutional emancipation, and constitutional prohibition of slavery forever in this land be nothing more than is thus claimed for it, removing the control of the master but leaving the freedman subject to all the other disabilities of slavery, it is a mere mockery. That the question of color had nothing to do with the exclusion of persons of African descent from the *status* of American citizenship I think is made clear by Mr. Justice Curtis in his opinion in the Dred Scott case, which case constitutes the only authority, I believe, against the competency of negroes to be made citizens. The opinion I refer to is as follows:

"It has sometimes been urged that colored persons are shown not to be citizens of the United States by the fact that the naturalization laws apply only to white persons. But whether a person born in the United States be or be not a citizen, cannot depend on laws which refer only to aliens, and do not affect the *status* of persons born in the United States. The utmost effect which can be attributed to them is to show that Congress has not deemed it expedient generally to apply the rule to colored aliens. That they might do so, if thought fit, is clear. The Constitution has not excluded them. And since that has conferred the power on Congress to naturalize colored aliens, it certainly shows color is not a necessary qualification for citizenship under the Constitution of the United States. It may be added that the power to make colored persons citizens of the United States, under the Constitution, has been actually exercised in repeated and important instances. (See Treaties with the Choctaws, of September 27, 1830, article 14; with the Cherokees, of May 23, 1836, article 12; Treaty of Guadalupe Hidalgo, February 2, 1848, article 8.)"

Here, then, is the point of the argument: that a man born on our soil, subject to military duty, subject to taxation, rendering obedience to all our laws, sustaining all the burdens of citizenship and discharging all its duties, and morally and intellectually qualified to vote intelligently and judiciously, cannot, justly and consistently with the principles and spirit of our republican institutions, be rightfully deprived of the elective franchise, simply in consequence of the color of his skin or on account of his race. His being a black citizen cannot, if he have all the other qualifications of the white citizen who by law is entitled to vote, constitute any legal, rational, or righteous disability on his part to vote. The only justification for his exclusion which will bear the test of reason and of right must be found in considerations of the public peace, welfare, or safety. If the enfranchisement of the negro will impair any of these, then you may exclude him from political authority; if not, how can you justly do it? If according to our Constitution and laws and the spirit of both, the native-born black man is a citizen, how can you consistently withhold from him this fran-

chise when he becomes equal, morally and intellectually, with the white voter; when he fulfills the same conditions you impose on the white voter?

But the freedman is not the only party interested in this question. I consider the political enfranchisement of such of the freedmen as shall become capable of a judicious and intelligent use of the right of suffrage as very materially connected with the welfare of the white man and of the nation. The great argument against emancipation was the danger to be apprehended from the want of homogeneity between the two races. Entertaining the views I have already expressed, I shall not attempt to deny that there was force in the argument. No candid student of history or of the philosophy of human nature can be free from apprehension here. But let me repeat the fact that the deed is done. Slavery has been abolished. It is for the future we are required to provide. Four million colored slaves have been emancipated—forever emancipated. They are in our midst, and we cannot help it. There may be danger in giving to them the elective franchise; but is there not equal if not greater danger in withholding it from them? They may not be homogeneous as voters; but will they be any less so as freedmen deprived of the right to vote? Is there not more danger in the want of homogeneousness in the endowment of political rights than in race or color? May they not claim the right to vote at some time? Is there no danger here? If we tax them, will they always peaceably submit to it without representation? Will they always yield unresisting obedience to a Government imposed upon them without their consent? Will they have courage enough to bear arms in our defense, and to die in our defense, as they have done recently, and yet be incapable of exerting equal courage and determination in asserting their own rights, real or imaginary? Remember, they are four millions now—more in numbers than our fathers were when they fought the battles of the Revolution and established our independence as a nation. There may be danger in the direction indicated; but is there not, I repeat, equal if not greater danger in the contrary direction? Sir, I acknowledge again that the question is surrounded with difficulties of the gravest character. I am seeking to discover the way by which we may avoid the most serious of them.

Now, I know that it has been said that any attempt to elevate the negro to an equality with the white man at the polls will certainly provoke a conflict with the white voter; that the white man will submit to no such humiliation. Where is the humiliation? If I am not in error, if our fathers were not in error in enunciating the truth that all just government rests on the consent of the governed, then the right of suffrage would seem to belong to the freedman who is competent to appreciate it, if we compel him to submit to our Constitution and laws. Can there be any humiliation in granting to any and to every human being what he is worthy of receiving or what he is entitled to receive? Nay, sir. The degradation, I think, would consist in withholding it from him. Besides, sir, I suppose the white man would be no more humiliated by the equality of the negro at the ballot-box than he would be by equality at the bar of a court of justice. And yet all are agreed, I believe, to yield to the negro equality of civil rights. And what do these include? All that enters into the security and enjoyment of "life, liberty, and the pursuit of happiness." If the negro is to be placed on the same platform with me in all these vital respects, and no degradation is suffered from it, I cannot see either the degradation or any just cause of danger in awarding to him, when he is qualified to receive it, the elective franchise. I am not blind, sir, to the prejudice, not to say passion, which exists in the public mind against the endowing of the negro with this great right; nor will I conceal the apprehensions which I feel myself lest serious difficulties and collisions may ensue. But my argument is, that there is less danger in bestowing the franchise than there is in reserving it. That is the point I make. There ought to be, there is in truth, no good reason why justice to the negro should provoke the hostility of the white man; but there would be reason in the revolt of the former if the latter should be guilty of injustice to him. It may be impossible sometimes to give practical effect to abstract principles of right and justice; but wherever it is possible to do so we ought not to fear evil consequences from doing it. What

is right is always expedient if it is practicable.

But, Mr. President, I may as well notice this outcry against negro equality a little more particularly. It is an unmeaning clamor, addressed to the passions and prejudices of the unthinking rather than the respectful consideration of the statesman. Will you, it is frequently asked, will you make the negro equal to the white man? Well, sir, what does that mean? If it were possible to make the negro fully equal to the white man—equal in virtue, in knowledge; equal in all the attributes of our common human nature—why should it not be done? And if he were really and truly made our equal, what would we have to complain of? It would take away the grounds of complaint. And if the elective franchise really had any such wondrous power of transmutation and refinement of the negro, why should it not be bestowed upon him? If the power to vote would really make the negro equal to us, we ought to desire it to be given to him, for it is his inequality with us of which we complain. It would at once remove the apple of discord which has been so long disturbing the peace of the nation. But unfortunately it could have no such effect. Equality of civil and political rights could have but little influence on the social relations of the races.

Why, sir, the negro has an equal right to breathe the same vital air which we do; and he does breathe it equally with us; and it is equally necessary to the life of us all. Does that prove the social equality of the races? The right of suffrage is the vital principle of republican institutions; but its equal enjoyment by the white man and the black man does not and cannot in anywise change the personal identity of either or affect their social relations. Social relations cannot be regulated by law. They are beyond its power. They are not the legitimate subject of legal regulation. Social equality is a matter of taste, of feeling, and of every man's unfettered sense of propriety. The idea that because a negro can vote he is thereby placed on a social equality with the white man is supremely ridiculous. The idle, vicious, dissolute, dishonest white man votes; am I thereby placed under any obligation to acknowledge his social equality, or any other kind of personal equality? Is he, therefore, my equal? I may not and ought not to associate with him at all, nor will the law compel me to do it. Mr. President, such arguments are intended for other ears than ours. I am willing they shall go to those for whom they are intended, assured that the good sense of the people will readily distinguish between what is artfully addessed to their prejudices and passions and what shall justly challenge their enlightened judgment.

Akin to this class of objection is another even more trivial. I allude to the intermarriage and miscegenation of the races. It admits of the same reply. These also are matters of taste and feeling. And I have this further remark to make about it, that if any white man should ever so far forget all the instincts of nature and all sense of propriety as to intermarry with a negro, I would say, Heaven help the negro! She would certainly have the harder part of the bargain. But how could the elective franchise affect this matter? It imposes no obligation on the races to intermarry. It holds out no inducements to do it. There is no possible relation between the elective franchise and such intermarriage. It leaves the two races, in that respect, precisely where they now are. Moreover, it creates no barrier to the interposition of legislative prohibitions against such intermarriage. Every State, I suppose, has statutory provisions inhibiting the marriage relation between persons within certain degrees of kindred. The same policy might be observed in reference to these races, if the good of society should render it necessary. On the question of illegitimate miscegenation I need only refer to the census. The southern mulatto furnishes a conclusive answer to the argument on miscegenation. There has been brutality in both races. But in proportion as we shall elevate the negro, and increase his self-respect by extending to him the rights of man, these instincts and evidences of lechery and brutality will disappear. In my judgment, one of the most beneficial results of the abolition of slavery will be the decline of miscegenation.

I come now to the examination of the particular provisions of the bill, and the amendments proposed, under consideration, and to

the application thereto of the general principles regulating and defining the right of suffrage which I enunciated in the commencement of my remarks. I ask for the reading of my amendment.

The Secretary read the amendment.

Mr. WILLEY. This amendment proposes to classify the voters. I think it would be unjust to deprive of this right any who have heretofore exercised it. The amendment extends the right of suffrage to all who have been in the service of the country during the rebellion and have been honorably mustered out, whether they can read or write or not, or whatever other qualifications they may possess. Then the third classification imposes the qualification of residence, payment of taxes, and ability to read and write their names. Is there any valid objection to these restrictions? I think not. There is no exclusion or discrimination on account of color; although, as I have shown, such exclusion or discrimination might well be made, if the welfare or safety of the community required it. But this bill secures perfect equality. The principle, therefore, of negro suffrage is as completely recognized and established as if the enfranchisement was universal.

If I am not in error in supposing that every community may rightfully exclude from political authority all persons whose incorporation in it would imperil its prosperity and security, then I think it is plain that a large proportion of the freedmen of this District should be excluded. Who are these freedmen? Whence do they come? What is their mental and moral condition?

I do not pause on the fact that they are the descendants of tribes who were savages of the worst and lowest type not more than two centuries ago, and that the progress of mankind in civilization in all ages and under the most favorable circumstances has been slow. But I refer to the fact that these freedmen were slaves less than four years ago, the descendants of slaves, having all the servile habits and instincts of the most inveterate slavery, coming from States whose laws forbade their being taught to read, not only the Constitution and history of their country, but also the very oracles of salvation; debased, degraded, as ignorant as it was possible to make them. Are such beings as these the safe depositaries of the political power of any community? I repeat the question, are the peace, order, prosperity, and perpetuity of a State secure in the custody and administration of such citizens as they would make? Would you intrust to them any private business or personal interest of importance? Surely not. How, then, can you ask the people of the District of Columbia to confide to such voters the welfare and safety of its people? Recurring again to the fundamental maxim that all just government rests on the consent of the governed, I inquire, what is consent? It must be an intelligent consent. It implies that the party consenting understands and appreciates what he consents to. Do these poor creatures, I mean the majority of them, know what suffrage is? Can they appreciate the nature and importance of this high privilege? Do they understand our laws and Constitution, or the spirit of our laws and Constitution, or the spirit and principles of civil and political liberty? It is impossible. And yet it is a received and incontrovertible maxim that free institutions are safe only in the hands of an intelligent people. You say they will soon learn. Very well, sir; let them learn. The amendment proposed imposes no such inhibition on them in that respect. Nay, it holds out the strongest motive to mental culture and improvement. And this is one of the advantages of the restrictions imposed in the amendment. It says to the freedmen, you shall vote if you comply with a certain condition, and that condition is only to acquire the fundamental qualification of a voter, namely, intelligence sufficient to appreciate the right and execute it safely and beneficially to the public. Ought they, or any others, to have this great right on any other condition? Surely not.

There are, it seems to me, several advantages in this process of gradual enfranchisement. In the first place, it would avoid the mischief of the sudden influx of so large a number of incapable, ignorant, and irresponsible voters into the District at once. In the second place, it would meet with less hostility from the people. In the third place, if it succeeded, as I hope it will succeed, in demonstrating the capacity of the negro to discharge discreetly this high function of the citizen, it

would disarm public preconception and prejudice, and kindly and safely open the way for the enfranchisement at no distant day of the race here, elsewhere, and forever. And in the fourth place, it would obviate the very serious objection raised by the result of the late vote taken in this city to ascertain the sense of the people upon the question. It may be true, sir, that said vote was taken without any lawful authority for it. Nevertheless, it did unquestionably ascertain the fact that at least seven eighths of the people of this District are opposed to unlimited negro suffrage. It is hardly a fair answer to say that Congress is not responsible to the people of the District and has unrestricted power over the subject. I do not controvert the fact. But I do controvert the moral right of Congress to legislate for the people of the District in a manner repugnant to the fundamental principles of our American institutions. Who of us, in our own State, would dare to impose a law upon the people known to be contrary to the will of a clearly ascertained majority of them? Shall I be answered that we are to reflect the will of the whole American people? Then, I ask, what is the will of the American people in this behalf? Let the fact that the fundamental laws of three fourths of the States expressly prohibit the right of suffrage for the negro altogether answer.

And now, Mr. President, I have to say that the late constitutional amendment abolishing slavery in this country did no more than carry into effect the teachings and principles of the great founders of the Republic. Mr. Madison objected to the incorporation of the word "slavery" into the Constitution, because he said he hoped the day would come when there would be no slavery, and he did not wish to leave in an instrument so important anything which would remind posterity that there had ever been any slavery in this country. Emancipation, therefore, was no new conception. In accomplishing it we did only realize the ardent hopes of the great men who established our Government and ordained its fundamental law.

So, too, Mr. President, I may say that by conferring the right of suffrage on the qualified freedman we shall likewise be acting in conformity with the precepts and example of the same illustrious founders of the nation. In the case already referred to of Dred Scott *vs.* Sanford, the same eminent judge already quoted declared that—

"At the time of the ratification of the Articles of Confederation all native, free-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 we have the authority of Judge Gaston, as may be seen by reference to his opinion in the case of the State *vs.* Manuel, that in North Carolina these free negroes "claimed and exercised the franchise" until about the year 1835, when the constitution of the State was amended.

In Pennsylvania, the constitution of 1790 guarantied the right of suffrage to "every freeman over the age of twenty-one years." And if I am not misinformed the free negro of that State continued to vote until the year 1838.

In Maryland, too, I believe, free negroes voted until 1809, and perhaps still later. Maryland had provided, August 4, 1776, that—

"All freemen above twenty-one years of age having a freehold of fifty acres of land in the county in which they offer to vote, and residing therein; and all freemen having property in this State above the value of thirty pounds current money, and having resided in the county in which they offer to vote, shall have a right of suffrage in the election of delegates for such county."

On referring to the declaration of rights and fundamental rules of Delaware, made September 20, 1776, I find the following provision:

"That the right in the people to participate in the Legislature is the foundation of liberty and of all free governments; and for this end all elections ought to be free and frequent; and every free man having sufficient evidence of a permanent common interest with and attachment to the community, has a right of suffrage."

New York, in 1777, adopted the following constitutional provision:

"That every male inhabitant, of full age, who shall have personally resided in one of the counties in this State for six months immediately preceding the day of election shall, at such election, be entitled to vote for representatives of said county in Assembly; if, during the time aforesaid, he shall have been a freeholder, possessing a freehold of the value of twenty pounds within the said county, or have rented a tenement therein of the yearly value of forty shillings, and have voted and actually paid taxes to this State." (See constitution of New York, article 2, Revised Statutes, vol. 1, p. 126.)

New Hampshire:

"Every male inhabitant of each town and parish with town privileges in the several counties in this

State, of twenty-one years of age and upwards, paying for himself a poll tax, shall have a right, at the annual or other meetings of the inhabitants of said towns and parishes, to be duly warned and holden annually forever in the month of March, to vote in the town or parish wherein he dwells for senators in the county or district whereof he is a member."

Connecticut:

"The qualifications requisite to entitle a person to vote in election of the officers of government are maturity of years, quiet and peaceable behavior, a civil conversation, and forty shillings freehold, or forty pounds personal estate."

New Jersey:

"That all the inhabitants of this colony, of full age, who are worth fifty pounds proclamation money, clear estate in the same, and have resided in the county in which they claim a vote for twelve months immediately preceding the election, shall be entitled to vote for representatives in Council and Assembly, and also for all other public officers that shall be elected by the people of the county at large." (July 2, 1776.)

Pennsylvania, September 28, 1776:

"Every freeman of full age of twenty-one years, having resided in this State for the space of one whole year next before the day of election for representatives, and paid public taxes during that time, shall enjoy the right of an elector."

North Carolina, December 18, 1776:

"That all freemen of the age of twenty-one years, who have been inhabitants of any one county within the State twelve months immediately preceding the day of any election, and possessed of a freehold within the same county of fifty acres of land for six months next before, and at the day of election, shall be entitled to vote for a member of the Senate.

"That all freemen of the age of twenty-one years, who have been inhabitants of any county within the State twelve months immediately preceding the day of any election, and shall have paid public taxes, shall be entitled to vote for members of the House of Commons for the county in which he resides."

I might furnish other proofs of the political enfranchisement of the negro in the earlier days of our history; so that it is true, as I have already stated, that in granting the right of suffrage to the negro now in this District, we are following the precedents of the earlier if not better days of the Republic.

Still, Mr. President, we are warned by Senators of the dangers of introducing different races into the enjoyment of equal political franchises under the same Government. We are told that a conflict between them will inevitably ensue. We are admonished that we are the superior race, and the negro must go down before us. I have not denied our superiority—our superiority intellectually, numerically, physically, morally—our immeasurable superiority. What then have we to fear in a conflict? It is the negro who must go down, if either shall. In relation to predominance of race, therefore, we run no risk. Sir, in my opinion, the question is reduced either to the ballot or to banishment, either to enfranchisement, colonization, or slavery; or if to none of these, then to violent extermination, or to still greater demoralization and gradual extinction.

Sir, the races may not be homogeneous. I have already repeatedly admitted the force of the argument based upon this fact. But has it never occurred to Senators that the existence of the negro among us, in the condition he will occupy deprived of the elective franchise, will render the organization of society still more heterogeneous? According to my conception of the spirit and principles of our institutions, such a relation to the State is utterly illogical and irreconcilable. To be entirely a slave or entirely a citizen is plainly comprehensible. But the hybrid, purgatorial condition, midway between these extremes, involving all the obligations, burdens, and duties, and especially the capabilities of citizenship, and yet excluding the right of suffrage, is a solecism in government. Such a posture of affairs, instead of tending to the conciliation of harmony and peace, would, it seems to me, be the source of inevitable rupture and confusion.

Mr. President, the slavery of the African race in this nation has been the cause of nearly all the discord which has disturbed the public tranquillity. "The irrepressible conflict" has passed from the volume of prophecy into the bloodiest chapter of actual history in the book of time. Slavery has been abolished, not by the will or the wisdom of man, but by the folly of its friends and the providence of God. Shall we superinduce a repetition of the sanguinary history of the last five years in another form? Shall we lay the foundation of another insurrection? I think I may confidently anticipate increasing agitation in this Hall, and in all the councils of the country, and through every avenue reaching the public mind until the political enfranchisement of the negro in this District is accomplished. "The tide has set that way." It may ebb, but it will flow again as ceaseless as the sea. For the sake of the public peace, therefore; to avoid a conflict as irrepressible as that through which we have passed; to prevent the sorrows and desolations

of another civil war; to complete the harmony and symmetry of our political system, and reconcile the logical demands of our cherished principles of civil and political liberty by exhibiting a practical recognition of the Declaration of Independence, let the experiment be made. Our race can well afford to make it. It imperils none of our rights. It curtails none of our privileges or power. I cannot appeal to our fears, but it does challenge our magnanimity. If it fail, then the strife will be ended and the question forever settled. If it succeed, who is there so basely recreant to the high behests of his own humanity as to say he would not rejoice?

Sir, we are admonished against the radicalism of the times. Perhaps there is some necessity for the admonition. But let us not be so cautious as to err in the opposite direction. This is an age of progress—progress of ideas, of science, of philosophy, of civilization, of law, of liberty. The truth does not change; the fundamental principles of government as proclaimed by our fathers may not change; but their application may be made more complete. It would be unwise, it would be ludicrous, to stand still, steadfastly adhering to the same policies and measures which were appropriate to the radically different condition of affairs existing a century ago. Slavery is abolished. It is forever prohibited by our organic law. Shall our feelings, our prejudice, our policy, our laws relating to the freedman be the same now as when he was a slave?

"Tempora mutantur, et nos in illis mutamur."

The only worthy interpretation of the tremendous conflict which has just convulsed the nation, but which has been crowned with such resplendent victory, is progress—progress especially in the principles of human freedom. Let us not refuse the providential hand extended to lead us onward and upward toward a more exalted destiny. The great rebellion proclaimed that slavery was to be the chief corner-stone of its treasonable organization. And thus it was a revolt not only against legitimate human authority, but it was also a rebellion against the law of God. The result is announced by a fundamental decree of universal emancipation. This revolution will not stop there. It has awakened a spirit that will never slumber again until all laws and all statesmen shall recognize the authority of the heavenly precept uttered by the divine Lawgiver on the mount more than eighteen hundred years ago in tones which, however gentle and sweet, have sounded along down through the successive centuries, commanding an eager responsive echo from every liberal human heart: "Therefore, all things whatsoever ye would that men should do to you, do ye even so to them;" which was republished, in effect, by the great apostle in the midst of Mars hill: "And hath made of one blood all nations of men for to dwell on the face of the earth;" and which, at last, was essentially incorporated into the great national charter of American independence at Philadelphia. In America this Christian principle of humanity and freedom first received a legal definition and found a practical political recognition. In America let it have its complete, final, and glorious consummation.