XXXIXth Congress—First Session.

[CLOSE OF SATURDAY'S PROCEEDINGS.]

HOUSE.—Mr. Miller (Pa.) addressed the House on the question of reconstruction. He did not agree with the doctrines enunciated on that subject by his colleague (Mr. Stevens), or by his other colleague (Mr. Williams), or by the able gentlemen from Ohio (Mr. Shellabarger); for himself, he held that no rebellious action could force a State out of the Union. The Southern States, notwithstanding the rebellion, still remained part and parcel of the Union. He would accord to the rebels no such honor as their being successful in taking eleven States out of the Union, or taking one State out. All the action of the Confederate government was a gross violation of right. That government had never been admitted into the family of nations. The Federal Government had over those States and their people all its legal rights, as well as the rights of war.

Mr. John L. Thomas, Jr., (Md.), next addressed the House on the question of reconstruction. He held that Congress had full control over the whole subject. The unseemly haste on the part of the late rebel States to be admitted to representation in Congress on their own terms was only equaled by their precipitate action in leaving the halls of Congress in 1861. They had then attempted to break up, by force of arms, the government which they would break up to-morrow by political trickery, if they had the power. His own desire was that the rebel States should have their representatives in Congress; but, at the same time, he was sensible of the duty which he owed to the country, and to those loyal men of the South who had stood true to the Union in the hour of peril. As he had never entertained a doubt that the rebellion would be finally crushed out, and traitors made to feel the enormity of their guilt, and although to-day he felt sadly disappointed that traitors had not met that punishment which their crime deserved, still he had confidence in the devotion and patriotism of the loyal masses of the people that they would never allow these rebels to dictate the terms on which they should assume their relations to the government.

Either they were to be consulted as to what conditions would best please them, or Congress was to lay down the terms on which they were to be received back. While he denied that any State could be taken out of the Union, yet its government could be so usurped and destroyed as not only to require remodeling, but to require a whole new frame-work. It was for Congress to decide, not only whether the State governments of the South, having been subverted, have been reconstructed, but to examine and see how they have been reconstructed, and whether they are so reconstructed as to entitle them to representation. These States should remain where they had remained for the last four years—in the Union, to be sure, because they had not the power to get out of it; but in the Union divested of their right of representation in Congress, until the masses of the loyal people of the country had so hedged them in with guarantees and safeguards that they could be safely intrusted with that right. He believed that the country was on the eve of a revolution as portentous to the next generation as the recent rebellion had been to this. The very men who had brought on the war of rebellion were striving to-day to get back to the places they had so ignominiously deserted, in order that they might control the government which they had so impiously striven to overthrow.

He believed that the President had made a great and sad, and he feared a fatal mistake, in the indiscriminate manner in which he had granted pardons. It was no wonder that the red-handed traitors were such friends to the President's policy, because they saw that that policy was to give them back all their rights as fully, and place them in possession of the government as fully, as before they went into the rebellion. The President's policy had done more to make treason respected and traitors heroes than the establishment of an independent confederate government could have done. If the President's policy were carried out, it would not only put the eleven rebel States in the hands of rebels, but the time would not be long before rebels would have complete control of the government in all its departments. It was no wonder that every rebel, from Davis down to every subaltern, including bushwhackers, jayhawkers and guerillas, was an earnest and devoted admirer of the President's policy. It was just the policy for them, because it was the only one they could live by, and the one which they professed through their papers to be ready to die by. He desired to see a constitutional amendment adopted prohibiting Congress from repudiating any part of the Federal debt, and from assuming or paying any part of the confederate debt; for although there was no fear of such a thing from the present or the next Congress, there was no knowing what might be done if the rebel States were admitted to representation in Congress.

Mr. Smith (Ky.) was the next to address the House. He proposed, he said, to discuss the present condition of the States and country, and the position of the President and of Congress. He said that all secession ordinances were null and void, and all the acts passed by Congress during the four years of war were based upon the ground that these rebel States were not out of the Union, and could not get out of the Union. It did not follow that, because the rebel States were admitted to the right of representation in Congress disloyal representatives should be allowed to take seats in either House. That had never been asked by the President or any other loyal man? What could Congress do contrary to what had been done? The policy inaugurated by the late President Lincoln, and carried out by President Johnson, under which the Southern States had formed their organization, how was it to be changed, or what was to be made in it?

Mr. Schofield (Pa.) asked if it made any difference whether a man who had been engaged in the rebellion was admitted as a representative, or a man who had not been engaged in the rebellion, but who would vote exactly as the ex-rebel would vote.

Mr. Smith replied that he did not see how that difficulty could ever be avoided. There was nothing in the Constitution or laws by which it could be done. It did not follow that his own district or the district of his very radical friend, Mr. McKee, would hereafter send representatives of their stamp. Because the State of Illinois sent to this House a man who was seven feet eleven inches high, did it follow that the same district would hereafter send a man of the same stature, or of the same strong political views. [Laughter.] What legislation could regulate this thing?

Mr. Bontwell asked whether the gentleman did not see a difference between canvassing the political opinions of men elected from loyal States on questions concerning the administration of Government, and recognizing the right of people who are at present not represented to be represented until some affirmative action is taken on the part of the Government. If it was found, as it was found by the testimony of Alexander H. Stephens and others, that in some of those rebel States nine-tenths of the people denied the right of the Government to exist, were they to beallowed to come to Congress and assert the power of representation for the overthrow of the Government.

Mr. Smith admitted the difference in the two propositions, but he did not see why States, in which those conditions did not exist should not be admitted to representation.

Mr. Randall (Pa.) asked Mr. Boutwell whether the rights of the loyal one-teuth of a State were to be impaired by the disloyal nine-tenths, and whether that loyal tenth, being taxed, was not entitled to representation.

Mr. Boutwell replied that the right of representation, whether in the Senate or in the House, was a right appertaining to the States as States, and that it could be exercised by the people only through an existing and recognized State organization. The State organizations in those eleven States which had once existed in harmony with the organization of the National Government, had by some event or series of events ceased to exist as a matter of fact, because they were not represented in Congress. That was the evidence that they had ceased to exist. When, or why, or how, it was not important to inquire now. Before the right of representation could be again exercised in any of these States, there must be a previous recognition of such rights. In the inquiry as to the right of a State to be represented, its constitution must be looked into, and it must be ascertained whether there is such an existing loyal sentiment as would reasonably justify the expectation that the representatives from the State would be loyal. There was no right in the one-tenth of the people of a State, even though loyal, to be represented in Congress. It was the right of the people of the whole State, when they demonstrated as a whole their loyalty to the Government, to be represented as the people of a State.

Mr. Randall (Pa.) remarked that that overturned the doctrines of Mr. Lincoln from beginning to end.

Mr. Smith having resumed the floor, drifted to the question of conflict between the President and the Congress. He asked why, if the President had no power to do what he had done, Congress had not undone it, and done something else that would be better? What was Congress going to do in its place? State governments must exist, and there must be the same sort of machinery to carry them on. But it was said the Southern States must repudiate the rebel debt. That has been done. It was said that they must ratify the constitutional amendment abolishing slavery. That had been done also. Then it was said that they must elect loyal men to Congress. How did Congress know that that had not been done in every instance? Who had tried that question? The Committee on Elections, which was the proper authority on that subject, had said nothing upon it. In excluding those States from representation, Congress was doing a wrong which would result in injury to the Government. Drifting into the question of the trial of Jeff. Davis, he said that the President had reserved from pardon five hundred of the leading men of the rebellion, and he asked why Congress had not, by bill or resolution, called for their trial and execution. It was because Congress wanted to dodge the question.

Mr. Eldridge inquired whether Mr. Smith supposed that Congress had power to pass laws by which those men could be tried and condemned, or whether they must not be tried under the laws existing at the time the crime was committed?

Mr. Smith replied that as a matter of course they must be tried under the laws existing at the time the crime was committed, but Congress could fix the means by which they could be brought to justice.

Mr. Eldridge inquired further whether they must not be tried in the districts prescribed by law?

Mr. Smith agreed to that, and said that the districts were as numerous as the men to be tried. They could be tried in Virginia, and all the Southern States, because the courts were re-established.

Mr. Broomall (Pa.) asked what additional law was necessary, and what power Congress had to pass a law for the trial of persons for crimes committed heretofore?

Mr. Eldridge suggested, as an additional question, what the President had to do with it?

Mr. Smith said he knew that Congress could not pass an *ex post facto* law, but he could understand very well the effort that was being made by men to avoid by legislation or non-legislation the bringing of these men to trial. It was because they knew it would affect the true policy adopted by President Johnson.

Mr. Broomall inquired what power Congress had in the matter.

Mr. Smith retorted by asking what power the President had.

Mr. Broomall suggested he had the power to execute the existing laws.

Mr. Smith said that President Johnson had pursued the policy inaugurated by President Lincoln, and that Congress would not dare to destroy it, because Congress felt the force and effect of that policy on the country, and knew that the great masses of the Union people would soon rise and maintain it, and that the leaders who were opposing it would go down and be forgotten and unwept.

Mr. Randall (Pa.) suggested that the President had, on the 2d of October, 1865, addressed a letter to Chief Justice Chase on the subject, and that the Chief Justice on the 12th of the same month had replied, declining to hold such court as had been suggested by the President, and suggesting a trial by military commission.

Mr. Shellabarger (Ohio) desired to make a statement in that connection. He said that within a few days past the Attorney General of the United States had stated to him and another gentleman, not in confidence or privately, that the position taken by the Chief Justice was proper, as the condition of the country was such as to make a judicial trial, under circumstances, nought else than a mockery.

Mr. Ritter (Ky.) next addressed the House on the question, chiefly, of the relative value of slave labor and free labor, contending that slave labor was more profitable to a State, and comparing the productive and property statistics of Ohio and Kentucky, and of Illinois, and Alabama. He subsequently admitted, however, in response to Mr. Kelley, that the statistics he had cited embraced the assessed value of the slaves. He appealed to Congress, if it did not desire the repudiation of the Federal debt, to stop in its mad career—to cease in its efforts to force its peculiar views on the people of the late slave States. They should imitate the noble example of the President, and open the doors of Congress to the representatives duly elected. Each State should be left to control its own internal affairs, subject to the Constitution and laws of the United States. This was the only way in which they could have a restored Union.

Mr. Shellabarger next addressed the House. He reminded it that, some weeks ago he had introduced a resolution requesting the Judiciary Committee to inquire as to whether it was competent, under the American Constitution, for Congress to declare a forfeiture of citizenship by act of law where that citizenship had been voluntarily abandoned by acts of disloyalty. Since that resolution had been adopted he was glad to find that the distinguished gentleman who occupied the chair of this House had been reflecting on this great question in the same direction to which the resolution pointed. One of the most distinguished lawyers of the House had also introduced a set of resolutions bearing on the same idea, and expressing, with more distinctness, a plan for putting in application that power of the government.

He was glad, therefore, to find these and other evidences that the mind of the country was being now directed towards this important practical question, as one of the means which may be resorted to for the purpose of relieving the government from these questions of terrible embarrassment by which it is surrounded. He desired now to direct his remarks to that great question, in the breach between the President and Congress, touching the method of restoring the States in recent revolt. In the causes for that breach most men found the occasion for alarm. If, however, any faith could be placed in the most solemn utterances of Congress and of the President, then they did not differ, but did most precisely agree upon one at least of the most important and decisive principles and means for the restoration of those States to power. He solemnly averred his belief that if the President and Congress had the constitutional right to employ the means to which he alluded for the restoration of the States, and if they would in good faith unite to apply and put in force the principle which both professed to hold, the work of reconstruction would be, if not easy, at least ultimately certain and at once secured. That principle was that in all those States the truly loyal should alone have powers of government, either by the holding of office or by the exercise of the elective franchise, and "that the conscious and responsible leaders of the rebellion should be tried, convicted, and executed." If the loyal people of those States had full control of their government, he saw no reason why each of those States should not be welcomed to-day to the embraces of the parent government with an acclaim of joy almost like that which the angels gave at Bethlehem.

Mr. Hale interrupted to ask a question. The drift of the gentleman's argument, he said, was to show that Congress might lawfully enact forfeiture of citizenship as a penalty for having been engaged in rebellion against the Government. He submitted whether there was not another difficulty in the case, namely: that by an express provision of the Constitution which the gentleman had failed to notice, the imposition of a new penalty for any crime whatever committed before the passage of the act is expressly and directly within the definition of an *ex post facto* law, and whether it was not thereby forbidden by the Constitution as effectually as bills of attainder were forbidden? If Congress might by legislation enact the penalty of loss of citizenship for disloyalty, might it not by the same rules enact any other or different penalty for an offence committed before the passage of the act?

Mr. Shellbarger replied that that provision of the Constitution had no application o the matter he was discussing. That provision related to the punishment of crime as such, and to the forfeiture of rights in the punishment of crime, whereas what he was considering was an exercise of national sovereignty, not in punishment of crime, but simply in depriving men who by acts of disloyalty had voluntarily renounced their allegiance to their own government, in the right to resume their political powers. He would not have what he said pushed to any other consequence than the consequences to which he pushes his argument, namely, that the right of citizenship, being of no national donation, of national definition, of national control, was a matter the deprivation of which as a consequence of voluntary surrender of the obligations of citizenship is not an infliction of punishment for crime, but is simply the declaration of the sovereign that as they had surrendered their political franchises they should not continue to exercise them. He sustained his position also by reference to a provision in the army appropriation bill of 1864, declaring that deserters from the army forfeited all the rights of citizenship, and were forever incapable of holding any office of trust or profit in the United States, or of exercising any right of citizenship, and he asked whether desertion was a higher offence than four years of war against the national existence. The passage of such a law as he suggested would stand as a practical assertion of the exercise and application of the national powers of self-preservation for which he contended.

Mr. Hale rose and said he did not wish to put himself in the position of the gentleman to whom Goldsmith alluded, "who thought of convincing while other-thought o dining;" but he would take the privilege of calling the attention of the gentleman who had just made an argument which, for elaborateness, learning and fairness, he had seldom heard equaled in the House, to one or two points in it. In regard to the suggestion which he (Mr. Hale) had made that this was in the nature of an *ex post facto* law, he submitted that it was not an answer to say simply that that section had nothing to do with the case. It was proposed as a penalty for treason and rebellion that these men should by legislation of Congress at this day be deprived of certain rights. That was, by all legal definition, an *ex post facto* law, and nothing else. He submitted that the act of 1864 in reference to deserters, and each of the other statues passed by Congress, was prospective in its operation, and not retrospective or retroactive. The law in reference to deserters who had deserted was to take effect if they did not return to their regiments by a day fixed, making the prospective crime of desertion the crime to be punished, not the past offence. He held the crime of treason in as great detestation and horror as it was possible for the gentleman to do; but he dreaded one thing more than armed rebellion, more than treason, and that was to see the true, honest, loyal, strong men of the nation, like the gentleman from Ohio, in their zeal to let their condemnation of the crime of treason, override, or seek to override, the plain and palpable provisions of the Constitution. He regretted that he was not prepared to point out where the gentleman's argument departed from the true constitutional ground, but he would promise himself the pleasure of making that effort at as early a day as he could obtain the floor.

The House then, at half-past five o'clock, adjourned.

The Fight-Hour Law in Massachusetts.

BOSTON, April 21.—The lower branch of the Massachusetts Legislature, rejected the eight-hour labor bill by a vote of 109 to 52

A NATURAL WATERFALL.—The Cleveland (Ohio) *Register* says: "A gentleman of this city is the happy possessor of a bright little daughter six months old. When the child was born the head was entirely devoid of hair, except that portion of the head which, with ladies, is covered by the waterfall, and this portion was covered with a thick growth of jet-black hair, three inches long, and precisely in the shape of the most approved 'waterfall.'"

ORNITHOLOGICAL TRICHINA.—The Erie *Dispatch* says: "We saw a curious thing a day or two since at Charley Nunn's. A meadow lark, which had been killed and brought in among some pigeons, was examined, and found to be almost exclusively composed of worms, from half an inch to two inches in length. The flesh was completely pierced through and through with hundreds of them. Has trichina got among the birds?"

ON FRIDAY, on the Christiansburg and Shelbyville pike, (Kentucky) Turrell, Walters, and a number of their old comrades were seen moving toward Shelbyville. This created some excitement, as Turrell said he was watching for parties, who being sworn for examination as jurors at the recent trial for murder at Shelbyville, stated that they were satisfied that Turrell should be hung, and says he will kill the last one of them.

AT BRANDENBURG, (Kentucky) on Friday afternoon, in an altercation between the brothers Kendrick and Allen Stanfield, respecting an old partnership, the latter having drawn a pistol, was instantly killed by the former.