

CONSTITUTIONAL CONVENTION.

COLOR QUALIFICATION FOR OFFICE.

Able Debate between Messrs. Travers, Fitzhugh, Pendleton, Faulkner and Johnson.

Remarks by Hon. W. H. Travers, of Jefferson, in Constitutional Convention, on the Proposition to Exclude Negroes from Eligibility to Office.

Mr. Travers in effect said :

He deeply regretted that the subject under consideration of the Convention could not have been avoided. Although he had a very decided opinion upon it, and had no doubt what were the opinions of his constituents, he would have preferred, if possible, to have escaped the discussion now in progress. It must, from its very nature, elicit warm and earnest feelings and develop views among members as widely different as were the views of the people whom they represented. But the subject was before them, and he had no hesitation in determining in what direction lay the line of his duty.

It had been very generally conceded by the gentlemen who preceded him that there was no inhibition in the Constitution of the United States of power on that point, of this State or of any other to limit equality to office to its white citizens. Neither the Thirteenth, Fourteenth or Fifteenth Amendments negated that power if we saw proper to exercise it. The first of these amendments was designed to abolish the institution of slavery; the second, to define who are citizens of the United

States and of the States that compose them; the third, to prohibit any of the States from making a distinction between race, color or previous condition of servitude in conferring the privileges of suffrage. It could not be pretended that in either of the first or third of these amendments there was anything in derogation of the right here sought to be exercised. If there is anything to restrain or qualify it, it is to be found in the Fourteenth Amendment and contained in these terms: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States." This is no new language introduced for the first time into the Constitution of the United States. It is found elsewhere as a part of that instrument, as it came from the hands of its venerated and illustrious framers. Article IV. section 2 contains this provision: "The citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States." No other construction of this section has ever been given than that which made it applicable to the *civil rights* of the citizens of the several States. It means no more nor less than that the same privileges and immunities granted or extended to its own citizens by a State shall be granted and extended to the citizens of all the other States, when

found under its jurisdiction. It does not propose, in any manner, to interfere with the reserved and undelegated power of each State to designate whom it pleases as the persons from whom alone are to be selected the agents necessary or proper to operate the machinery of its own government. Should any State deem it wise or prudent to exclude from office any class of its own citizens, it has the unquestioned and unquestionable right to do so, and there is no ground for complaint by the citizens of another State. It is a matter purely of domestic government which each of the States can regulate and control for itself.

By the Fourteenth Amendment, "all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." This provision is broad and comprehensive. It embraces persons of all sexes, colors, ages and conditions. And yet it would not be pretended that because women, by virtue of it are citizens of the United States and of the States wherein they reside, should any of the States confer the privilege of holding office on females, that by moving from a State in which they are thus privileged to one in which the privilege is withheld, they would be entitled to hold office in the latter State.

In some of the States of the Union clergymen are denied the privilege of holding political official positions, and yet it would not for a moment be supposed that there is anything in the articles of the Constitution of the United States, now under consideration, that would give a minister of the Gospel living in the State of West Virginia where he is eligible to such positions, the privilege of holding office in the State of Maryland, where, by Constitutional provision, it has been denied to him. The Fourteenth Constitutional Amendment contained nothing in conflict with the power of a State to regulate, at will, this question for itself. "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States." There is no violation of this provision by a State that, for any reason, satisfactory to itself, excludes from

its official service any portion of the citizens of the United States, unless by virtue of their being such citizens, they are clothed with some special privilege of holding official position in the State organization. He supposed no one would be found to maintain a proposition so altogether untenable as this.

The question, then, was one of State policy and not State power. This being the case, ought the framers of the Constitution of West Virginia to extend to the negro race, who have been made citizens contrary to the recognized will and wishes of a vast majority of her people, the privilege of occupying even her highest offices of trust, dignity and profit? It is no answer to this question to say that there is no danger, in fact, that any of this class will ever be elevated to official position by the free choice of the white voters, who are largely in the majority in every county of the State. The same argument would apply, with equal force, to confer upon them the right of suffrage were that an original proposition to be determined by the will of the people. It might, with equal propriety, be said "give them the election franchise; they are in a minority in every county in the State, and although they are ignorant and unprepared to exercise intelligently this great privilege of citizenship they cannot wield it to the detriment and injury of the State!" There is a great principle involved in this subject, which it is the duty of this Convention to guard sacredly and vigilantly.

It had been said that by the amendment to the State Constitution, known as the Flick Amendment, a large majority of the people of West Virginia had expressed their desire to bestow not only the right of suffrage, but the privilege to hold office, on this class of our population. He wholly misunderstood that act of his fellow-citizens, if it was fairly susceptible of such an interpretation. The adoption of that amendment was urged solely on the ground that it involved no principle that had not already been settled by the late amendments to the Constitution of the United States which had been forced upon the States by fraud, chicanery and intimidation. These amendments, it may be argued, had given the right of suffrage to the negro, and no additional

privilege would be bestowed upon him by the Flick Amendment, while it gave the opportunity of restoring the right of suffrage to a large class of disfranchised citizens who had been made aliens in their native State and stripped of the commonest rights that belong to the people of a free State. Who among us would have been so bold as either to have commended or accepted this amendment, had it been supposed that at the same time it struck from the limbs of men of Anglo-Saxon blood the political shackles which a relentless and merciless proscription had forged upon them, while it elevated to the dignity of American citizenship and to a participation in the high privileges that belong to it, a race that, through all the long ages of the world, have only been found capable of wearing the yoke of bondmen and of slavery.

There has been connected with this subject another which he did not believe properly belonged to it. Some gentlemen had been pleased to express the opinion that the prospect of amnesty to the brave men who were suffering under the disabilities, imposed upon them by the Fourteenth Amendment might be injuriously affected by the incorporation of the word *white* in the Constitution to designate the class of citizens who shall be eligible to office in the State of West Virginia. Did he believe that our action on the proposition now before the Convention, would retard, for one hour, a consummation, so devoutly desired as this, he might hesitate in the course while he now thought it his duty to pursue. But he was satisfied no such effect would be produced. What are the facts which the history of this subject shows?

It has been seven years since, on the fatal field of Appomattox, the armies of the late Confederacy surrendered their arms and returned to the peaceful occupations of private life. On promise of a restoration of their States and themselves to their former position in the Federal Union, they had surrendered, one by one, their cherished political principles. They acquiesced in the abolition of slavery. They passed through the terrible ordeal which wrung from them the concession that branded with political degradation their own comrades in the heroic struggle

from which they had emerged. They made superiors in political privileges of men who had been their own slaves, and submitted to be governed by their new masters. All the sacrifices have been made, and yet the promised restoration and amnesty have been deferred.

Mr. Travers then depicted the prostration and humiliation of the Southern States; their helplessness and desolation; and yet, said he, with all the appeals which these are calculated to make to the heart of the conquering power, it is without pity and shows no mercy. No determination of ours here to-day will reach it or influence its action. Amnesty will come only when it accords with the pleasure and will promote the interest of the party now in power. He feared that much had been lost by the concessions which, from time to time had been made on the subject now under consideration. To yield to one exaction had always been followed by demands for another. At first it was only the equality of the negro before the law and his protection under it that were demanded. Then the right of suffrage was conferred, and now eligibility to office must follow. Next, in the order of sequences must be enforced social equality, and then all distinctions between the races, except that of color, will have ceased. Step by step have we approached this fearful and revolting conclusion. At first, veiled from sight, it now boldly appears, through the thin drapery that covers it, well defined, in all its hideous and revolting reality!

He believed it was time to pause and protest in some tangible and unmistakable form against this attempted debasement of their race! Did gentlemen believe that it was wise to throw open to the temptation and competition of this class the official honors and positions of the State? What more appropriate place for such an annunciation? In doing so they would strike down no man's rights. Office is a privilege and of right belongs to no one. It is, therefore, within the scope of the power of every State to say on whom it shall be bestowed, and from whom it shall be withheld. He was now and here in favor of an assertion of that power in the mode presented by the proposition

already adopted by the Convention. A failure to exercise it, especially since the question had been brought to the direct issue before them, would be to manifest an indifference which he was unwilling to believe existed, to any great extent, in this body, to consequences which he could not contemplate without a shudder, and from which he earnestly prayed his State and country might be saved in all the generations to come!

**Remarks of Mr. Fitzhugh, of Kan-
awha, in the Convention, March 6,
on the Proposition to Exclude
Negroes from Eligibility to Office.**

No question has been presented to this body that has caused me more anxious reflection than that now under discussion—whether we should allow negroes to be eligible to office in this State. If I were to follow my own inclinations and prejudices, I would unhesitatingly vote against the privilege; or if I were to yield my assent to the prejudices of a majority of those whom I represent, I would vote to confer the right to hold office upon the white man, and upon him alone. But I believe that it would not be consistent with right, nor with my convictions of the best interests of the State, to do so. I shall, therefore, so far as my vote is concerned, throw all public offices and honors open to competition to all alike, and leave my action to be judged by the reasons I shall give.

The events of the last ten years have wrought a great change in the civil and political condition of this country, especially as they bear upon the fortunes and fate of the negro. If the late war had left the negro at its close, where it found him at its beginning, I would say let him remain there; do not disturb him, socially or politically. But the old relations between the white and black races were entirely broken up by the war; and the emancipation of the negro was the necessary and inevitable result of the success of the Federal arms. The negro, thenceforth, became a new social and political element in the State, and new political theories and dogmas had to be adopted to meet the necessities of his case. Accordingly, a series of amendments were added to the Constitution of the United States to embody these ideas. The Thirteenth

Amendment—the first of the series—merely declares that slavery shall never, in the future, be tolerated. It was not this provision of the Constitution that abolished slavery. The emancipation of the negro was another and independent act, and owed its origin to other and different causes. Emancipation—the abolition of slavery—was the certain and logical result of the war, and the Thirteenth Amendment was merely the inevitable and logical result of emancipation. The one followed as the consequence of the other, and it was the Thirteenth Amendment that followed as the result of emancipation.

I claim that no man, of any party, can be found in all the land who demands a repeal of this provision of the Constitution. No where, North or South, can a man be found to say that the institution of slavery will ever again be established in this country or that it ought to be restored. The Thirteenth Amendment is recognized and received by all men of all parties and opinions, as final and conclusive on this subject. The universal acquiescence in the provisions of the Thirteenth Amendment does not result from the mode or manner of its adoption and promulgation, because in these respects it is open to as much objection, and I think more, than the manner of the adoption of the Fourteenth and Fifteenth Amendments, which have been so severely criticised. But the Thirteenth Amendment, with the principle which it embodies, is accepted as merely declaratory of the "Stern logic of events"—the necessary result of the war. It follows, then, that this amendment was the logical result of emancipation, as emancipation was a consequence of the war.

By the act of emancipation more than four millions of negroes were at once thrown upon society; and new political rights and duties, carrying new obligations on each side, spring up at once, between the two races—white and black—who composed the State. New elements had thrust themselves, or had been thrust, into the body politic, and it became necessary to provide for the emergency. The first and most natural step to take, was to make the negro a citizen. This gave rise to the Fourteenth Amendment—or rather to that part of it which bears more directly on

this subject. This amendment was also as much the legitimate offspring of emancipation, as the Thirteenth had been; and was necessary alike for the protection of the black, and for the benefit of the white man. By no act of their own—and possibly not even in accordance with the wishes of a majority of the negro race—in one day and by one act, the slaves were all set free. Up to that time they had been denied the rights of citizenship. It had been affirmed by the Supreme Court of the United States, in a case most elaborately argued at the bar and exhaustively treated by the bench, that negroes were not citizens, and could not acquire the rights of citizenship. I refer to the celebrated Dred Scott case. It is true that this decision has never been approved by the entire American public; but there it stood, resting upon the powerful logic of Taney and Curtis, and the other eminent jurists who sat on the bench. It would have been absurd and unjust to emancipate four millions of people and suffer them to remain in the State as a part of the community, but refuse them all political rights—even to refuse them recognition as citizens. This would have been the refinement of cruelty; compared with which slavery was a blessing. It was equally demanded in the interest of the white race, that a just political status should be accorded to the negro. Anything short of this would have been in direct conflict with the theory and principles of our government. To have withheld political rights from the negro under such circumstances would have taught this dangerous lesson to the white man: that governments may exist on our soil, in which a large portion of the people are not represented; and that laws may be passed, in whose enactments they have no voice. Such a lesson taught and followed, might in time reduce the larger part of the white population to the political condition of the negro. At this point, then, the Fourteenth Amendment, so far as it confers citizenship upon the negro, became a civil and political necessity. It was demanded alike by the necessities of both races; and both races would be equally injured by the repeal of the right.

I advance one step further in my argument. As soon as the negro was

elevated to the rights of citizenship, it became necessary to confer another right upon him; I mean the right of suffrage. To emancipate him, and declare him a citizen, and stop there, would be mere mockery. It would accomplish no good to either race. It became a necessity, therefore, that he should not be proscribed in the exercise of the most ordinary right that belongs to citizenship—the right to vote—on account of race or color. And the Fifteenth Amendment was enacted to meet this necessity. This amendment did not make him a voter, but it declared that he should not be deprived of the right of suffrage, solely on account of his race or color. It was simply a protection against proscription. And like the declaration of citizenship, it was one of the natural, legitimate and logical consequences of emancipation.

This series of enactments, as embraced in the Thirteenth, Fourteenth and Fifteenth Amendments of the Constitution of the United States (so far as they relate to the negro) was the logic of events, reduced to laws. And looking at them in this light, I would ask, who would repeal them? Would you repeal the Thirteenth Amendment, and remit the negro again to slavery? Would you deprive him of citizenship? Would you say to him, you shall not vote, because of your color? Why, sir, if this Convention had the power to repeal all the provisions of these three amendments—provisions which advance the negro from slavery to citizenship and suffrage—there is, I am convinced, enough wisdom and patriotism in this body to make it pause before it would attempt to tread backwards the footsteps of the past. And if these measures were repealed to-day, I venture to assert that this body to-morrow, with one voice, would demand their re-enactment.

I do not speak of the manner in which these amendments were imposed upon the country; I do not say whether they were constitutionally adopted or not. It is not necessary for my present argument to discuss that question. I put the political rights of the negro on a different and independent ground. I do not rest the tenure of his rights upon these constitutional enactments; I put them upon the ground of an

inevitable and irresistible necessity—a necessity as strong and controlling with me, as with him—a political necessity, which neither he nor I can disregard—a necessity which is the result of events that are settled and fixed; of events that in some degree have changed his political condition and mine.

I have endeavored to show that the negro has become a citizen and votes, not in compliance with any demand of his own, but in consequence of circumstances which control him and the white man alike. Why, then, should he not be eligible to office? Would you say to him, you may elevate me to office, by your vote, but you shall not aspire to the office, yourself? Will you tell him, that you fear to enter into a fair competition with him, for office? Are you more worthy to fill the office than he? Then you have great advantages over him, because you have the advantage of merit, numbers and caste, while he contends with you under every disadvantage of color, race and prejudice. The last census shows that there are 424,000 white inhabitants in this State, and only 17,980 colored—that is twenty-four white voters for one negro voter. And yet gentlemen fear competition with the negro, and demand his exclusion from office, by constitutional enactment. I cannot participate in the fears of those gentlemen. When I am told that it is probable, or even possible, that a negro may be elected to office in West Virginia, I reply that if he should be, it will be by your act, and your consent; for you have the advantage of the negro, in numbers alone, of twenty-four to one, besides these other advantages of color, caste, and race. Those who make use of this argument do not consider how much they reflect on the intelligence and wisdom of their own white constituents, who will be responsible for the election of every negro who gets into office. They tell us that the negro, the smaller and inferior race, shall not be allowed to compete for public honors, with the larger and superior race. I do not fear it. I believe the American can always maintain his ground, in open competition with the African, at all times and in all places, and for all positions. I can see no solution to this question,

save in the adoption of one of these alternatives, either to repeal the Thirteenth Amendment and remand the negro to slavery, or to acknowledge him as a freeman, and accord to him the political rights which belong to that condition. A middle ground is insecure for him and dangerous to us.

Remarks of W. K. Pendleton, of Brooke County, in the Constitutional Convention, on the Proposition to Exclude Colored Persons from Eligibility to Office in West Virginia.

MR. PRESIDENT—I have listened, sir, with great interest to all that has been said on this deeply interesting subject, during a discussion, now protracted into the third day, and I have a few things which I wish to say, and for the consideration of which I beg the indulgence of the house. The question is one which must be considered both in the light of elementary principles and of expediency. I have tried to give due weight to the argument, of both kinds, which have been adduced on either side, or which have occurred to my own mind, and will briefly state the consideration which induced me to conclude against the proposition to insert the word "white" in this section of the Constitution, as a qualification for office. I do not assume that all the force of argument is on one side, but shall attempt rather to discover in what direction lies the *resultant* of all the forces involved in the question; for it is, sir, in morals and in politics, as in mechanics, that when many forces are acting upon a given point, the resultant motion will often lie, not in the direction of any one of them, but is to be found by a careful composition of them all, allowing to each its due direction and quantity relatively to all the rest. In no question of practical interest to the world, can we expect to reach absolute truth so long as the fallibility of human judgment enters as an element in the problem; the most that we can hope to attain is a wisely balanced compromise. Thus out of confusion we educe order, and from the conflict of opposing forces, as in the material, so in the political world, is worked the harmony of the universe.

I was affected, sir—no one of any sensibility could fail to be affected, by the eloquent pictures of domestic and social evil, which were so vividly held up before us by the gentleman from Hampshire, (Mr. Monroe,) and could I be convinced that they have any solid foundation on which to rest, I could not refuse them a powerful influence over my judgment—but eloquence is the child of imagination and passion, and too often her grandest flights mount from premises, as aerial as the regions through which she soars. Who, sir, proposes domestic and social equality? It surely does not follow, as a consequence from eligibility to office. We are not bound to admit any one to the sacred circle of our firesides, merely because we extend to him the right to hold an office. Among white men, no such criterion is recognized or enforced. Our houses are still our castles. Old as the Justinian Paudects is the maxim, *Sua domus est quique tutissimum refugium*, and no edict of Kings or force of Constitutions, has ever dared or can successfully dare to break through and invade the sacred and inviolable refuge. The time has not come and never can come, when the mere right or eligibility to office can compel or encourage social and domestic intercourse. There is no power, that can force upon us against our wills, the humiliation of marrying our daughters against their consent to either a President or a constable—nor even so much as the duty of opening our doors to their company or their addresses. The inference is illogical and the fear, imaginary.

I do not propose, Mr. President, to insist on the proposition that the right to vote carries with it the right to hold office. It is not necessary to the line of argument which I prefer to follow, that I should do so. Both of these rights are strictly civil rights. They are granted by constitutions,—regulated in their exercise, by law. The right of suffrage is withheld from minors and females, and limited upon various conditions of residence, birth, &c. The same power, which does this, can also place limitations upon the right to hold office—and make the conditions under which the one may be enjoyed, different from those of the other. This is done, in the case of judges and other officers,

where a different age is prescribed, and in the case of Presidents of the United States, where birth is made a condition. As to the question of power, therefore, there can be no reasonable doubt. Still the presumption is against its exercise. Whenever it is interposed, there must be special reason shown for doing so. Legitimately, the right to vote, does involve eligibility to office. This is the general principle,—any departure, is an exception, and must be for special and sufficient reason. What, let me ask, is the theory of our government,—the first elementary principle of the bill of Rights which we have just, without a dissenting voice, adopted? Is it not, that "the powers of government reside in all the citizens of the State?" What does this mean? Can that reside in a citizen—be in his power to bestow, which is yet not his privilege to enjoy? Do you mock me, by saying you are free to give, but not free to take? Is the creature, greater than the creator? the agent, than the principal? the representative, than the constituent? Sir, do we propose to violate another section of this same "Bill of Rights," and establish in this State a "privileged" class of men? Debar the negro from office, and say that white men alone shall hold office, and is not this an hereditary privilege, not I grant you in the narrow sense of personal representation, but still in the broad sense of race—a privilege hanging upon the blood? But I only propose to suggest this elementary argument, which is at least a strong presumption, against the proposed exclusion requiring, that any exception, any departure from the legitimate inference of suffrage, must be made for special and sufficient reasons.

Let us examine the strongest that have been suggested and relied on by the advocates of this proscription.

1. It is urged that the negro is unfit for office. He is ignorant, degraded and incompetent. Granted. It cannot be denied, nor am I one of those who believe that these disqualifications are the result of his American enslavement. I form my judgment of his natural capabilities from his historic place in the scale of races. There can be no question that his condition in America has greatly elevated him above the rank which he held in his native land. But

this is not the question. The question is, Are ignorance, degradation and incompetency confined to the negro? and are intellectual and moral distinctions to be made Constitutional qualifications for office? Then let us say so, at once. Make the law general, and we can all understand it. But this is not proposed. The argument proves too much, then—therefore it proves nothing. We cannot logically exclude the negro for a reason, that applies to many others, unless we make the rule, so that it will apply to them also. What is the theory upon which we determined these qualifications of an office holder? Is it that the Constitution shall prescribe them? This were as impractical, as it would be undemocratic. Do we not leave it to the free choice of the voter? Is it not the province and the right of those, "in whom the powers of the government reside," to decide for themselves, who in intellect, in elevation of character, in competency for legislation, is acceptable to them as their representative? Sir, shall we take from the voter, this legitimate decision of his own free choice, and fix it beyond his control in the Constitution—so far, at least, as the negro is concerned? Who can consistently say so?

2. But it is feared that if the offices of the State are open to the negro, since he is now, by force of the Constitution of the United States, a voter, there might arise a contingency in which he could hold the balance of power, and thus some party might be tempted to give him office in order to gain his vote. Now, sir, I do not take it upon myself to deny this; nor am I disposed to think, that, in the lapse of years, after the feelings of the recent conflicts shall have died out of the hearts of men, one party will be much more likely to do this than another. It is neither above the dignity or the morality of party politics. But, sir, it is, in West Virginia, a very remote probability. There are so many other and more potent, and, with the white man, so many more popular influences, that can be brought to bear upon this vote, than the one imagined, that it is in the last extreme improbable, that it could ever be resorted to—and, if it should, what would be, but the legitimate result of measures to which the

people in their freedom choose to resort for their own purposes—no one surely would propose to interfere in so general a way, with the freedom of choice in popular elections.

3. Mr. President, do I presume too far, when I say to this honorable and just body of gentlemen, Virginians, who know the negro as I do, and have been eye witnesses of his course all through the protracted and fearful struggle which ended in first his liberation, then his elevation to citizenship, and then his enfranchisement—do I go too far when I say this proposed proscription is *ungenerous* toward the negro? What has he done to deserve this gratuitous reproach upon his political standing? In the darkest day of adversity and peril, the great masses of them lifted no hand against the men and the women whom they venerated and served. In the fields of labor or in the fields of battle they stood as they were bidden, obedient and friendly to the last; and since the conflict has ended here among our hills, what have we seen but the same old reverence for the superior race about them, which made them in other days almost worshippers of the just and noble men and women to whom they were servants; and when the vote was called for, which, by the Flick Amendment, should strike the shackles of political disfranchisement from so many thousands of our own race, who responded more cheerfully than the negro? And if the question were put to-morrow to the vote whether all political disabilities should not at once be lifted from every man now resting under them in West Virginia, who doubts that the negro would be among the readiest of the free to say, "Yes, let it be so?" And, sir, is this the man that we should needlessly insult by a mere paper proscription from office? I cannot think it.

Gentlemen talk about the Caucasian race—and ask, will we "go back on the white man?" "will we degrade the noble Anglo-Saxon to equality with the negro?" Sir, is it degrading to be generous, magnanimous, noble? Has the Anglo-Saxon achieved his proud distinction, his royal rank among the nations of the earth by trampling upon the feeble; insulting the helpless; striking down his fellow man struggling

to rise? Is not, rather, the bright path of his progress, all along its skyward course, illustrious with examples of generous sympathy for those who, though in weakness, were yet struggling to be free? Sir, who proposes to make the negro the equal of the white man? What, but the power that pronounced the curse upon the descendants of Ham, could do it, if it would? What, but a fancy, that can "give to airy nothing a local habitation and a name," could conceive the fear, that extending the right of office to the negro in West Virginia, where in all probability not one will ever have office conferred upon him, that this mere paper grant of courtesy will seriously imperil our Anglo-Saxon nobility, and incontinently degrade us! That the only escape from this dreaded calamity left us is, for the four hundred thousand Anglo-Saxons in the State to proscribe the seventeen thousand negroes, that so imperil them, by putting the word "white" in the Constitution as a qualification for office. Sir, I have a different conception of this race. Theirs is the nobleness of "high erected thought, seated in the heart of courtesy," which stoops, not to conquer, but to free, and which, in stooping, but the more signally displays the grandeur of its own elevation.

4. Now, sir, what is the force of the objection, that the admission of the negro to office has worked badly in the South? Is the case at all parallel to ours? Here, there is first the remotest probability in the world that, in a solitary instance or two, in the whole State, a colored man may be elected to some one of the lowest offices in the gift of the people; there they have, in some of the States, filled, in quite considerable numbers, important places of office; here the intellect, the education and the capital of the white man are free to compete for official position; there the intellect, the education and the capital of the white man are driven from the field of competition—and the offices must be filled by the negro or the carpet-bagger, or not be filled at all. The evil result is not because the negro is eligible, but because the native, patriotic, intelligent white man, is not. The country is bound over to ignorance and knavery—by the general proscription of its intelligence and virtue. The

matter is working its own cure. The enlightened sentiment of even the Republican party is beginning to revolt at the reflection and reproach, which such a state of things has brought upon our free institutions, so that, from their own ranks, powerful voices are already raised in remonstrance against the degradation, and the remedy will be found and soon come, not in excluding the negro but in admitting the native white man. We can hope for it from no other source.

5. After all, Mr. President, the strong argument, I mean the argument, which more than any other, influences us in this matter, is that the admission of the negro to the right of office, is repugnant to our feelings, offensive to our prejudices. I would not be understood, sir, as using the word prejudice in any offensive or discourteous sense. I mean by it, those prepassions, which, from long custom or habit, have taken possession of our minds, and become almost a second nature,—which, without reason or reflection, we accept as just and right—which we do not stop to examine or analyze—and which, therefore, are adhered to, as principles of action, when the reasons that originally justified them, no longer exist. Sometimes our prejudices are not to dispersed or disparaged. They are founded in reasons, that justify them, and act with the force and the promptness of instinct in guiding us aright. Such, originally and for long centuries, was the prejudice of the Jews against the heathen nations round about them. It was founded in the divine command, and was intended to protect the pure Theism of their religion against the contaminations of idolatry. A time came when the reason no longer existed, but the prejudice remained, and it was the object of no small part of the Savior's teachings to correct and eradicate it.

Logically, when a cause ceases, its effect also should perish. But this is not always the case, and then, the prejudice is unwise and injurious. It exists and operates without and beyond its legitimate cause, and influences our actions without a reason. Is not this true in the case we are considering? Our views of the negro's relations to the body politic were fixed, when he existed among us a slave—he is now free;

when he was unfranchised, he is now a voter; when he was not our equal, before the law, now his civil rights, privileges, and immunities are commensurate with ours, and cannot be denied or abridged. Do not these changes in his political relations take all rational foundation from under our prejudices, and should not the prejudice fall? Surely, sir, if we are to make prejudice a justification of a Constitutional or even a legal prohibition against the right of office, we are estopped from complaint against all proscription of power. This Democratic Convention might have prejudice enough to exclude from the right of office all Republicans, as our Federal Government still cherishes enough to exclude all Rebels. It is in our power to set a nobler example, and I trust that our patriotism may "mount with occasion," and show the world that being free, we can also be just.

I have now, Mr. President, considered at sufficient length objections which have been or may be adduced against the continuance to the negro of the rights of office under the Constitution of West Virginia. Let me ask the attention of the Convention to the consideration of some of the reasons why he should not be excluded—for it is only by a proper balancing of the arguments on both sides that we can form a just conclusion.

First, then, let me say, sir, this proscription is totally unnecessary. If among a common class of voters, some are to be excluded from office, whilst others are admitted, have I not established the principle that the exception demands a reason, adequate to justify it.—I admit that under the broad and paramount right of self-preservation, it is allowable to make such a distinction, but the necessity must be if not unquestioned, at least evident. Now, sir, who can pretend that the safety or welfare of the State requires so undemocratic and unequal a rule as this? The gentleman from Berkeley (Mr. Faulkner) has proved to us by an exhaustive reference to the statistics of the counties, that there is scarcely the possibility of a case arising in any county in the State—or if in any case, only for the most insignificant of offices—in which a negro can be elected. I

will not go over what was made so incontrovertibly plain.

2. Not only is it unnecessary for the public welfare, but it would be positively injurious—because it tends to keep up a hostility of races. Justice and political equality are the great harmonizing powers of society. They not only take away all just ground of dissatisfaction and complaint, but they constitute the reliable foundation for the permanence and peace of society. But this unequal discrimination against a class or a race, in whom, in proportion to their numbers, we acknowledge the powers of government to reside, and who have the right of exercising that power through the ballot box, cannot fail to perpetuate a feeling of bitter and relentless hostility against the political party, that afflicts it. No matter what may be the wisdom of your policy,—no matter how just and beneficent your party platform may be,—the feeling of resentment against a race-brand, a mark of infamy, which is put upon the white man for nothing less than felony, will outweigh every other consideration, embitter every other feeling, and fix and consolidate against you, at once and forever, the entire negro vote of the State. You will know it and feel it in advance, and can have neither heart nor hope to ask or to work for their suffrage, in any political canvass. Sir, I ask gentlemen to pause and consider well, before they throw down this apple of discord, that may—aye, sir, that must be the source of perpetual and ever recurring strife all over the State. The spirit of our free institutions moves every heart with a sentiment against it,—the dictates of sound policy pronounce it unwise,—and the experience of the future will fill us with incurable regret, that we have fixed it in the Constitution beyond the power of repeal. Sir, let it not be too hastily assumed, that this vote is already fixed beyond the hope of change. Avoid this fatal step, and you leave the negro free to obey the influences, that truth and justice and wise measures must ever exert upon all men, and open to the approaches and arguments of all parties alike. He will soon take his place, not as a politically branded negro, but as a free voter,—and cast his ballot for the man or the party, that deserves his confidence, and proves to be his

friend. It will make him a better citizen, relieve the body politic of a discordant element, hostile to its welfare, and educe from partial evil, universal good.

3. Sir, how, let me inquire, will the proposed proscription place us in the sisterhood of States? Will it not isolate us from the general example, set us in the Constitutions of other States? What State, since the elevation of the negro to the right of suffrage has incorporated in its Constitution a proscription against him like this? From Maine to Texas, from Oregon to Florida, all along the diagonals, and up and down and across the sides of the vast parallelogram, that makes up our almost Continental dominion, this right is now recognized, and shall we, here in West Virginia, stand alone—marked and known by the notoriety of a deliberate and self-imposed restriction upon our own freedom, as to the persons upon whom we may confer the duties of office. I have heard it said, that in our beloved old Virginia, it used to be the common way of pointing out the eccentric John Randolph to strangers, by describing him as “the tall, thin gentleman with a swallow-tailed coat.” It was an easy distinction, for he stood alone in it, but not even his transcendent distinction as an orator, could redeem from ridicule, the fashion of his coat! and so I fear, sir, it shall be with us, if we put upon ourselves, this unfashionable mark of notoriety. I shall dread, as I pass up and down, through this mighty empire of the people, to hear our gallant young State characterized, lightly perhaps, if not contemptuously, by this unfashionable feature of negro proscription, and for what, Sir? A swallow-tailed abstraction too tenuous, I fear, to sustain either the *gravity* or the eloquence of my esteemed friend from the county of Hampshire!

4. Mr. President, I had proposed to myself in considering this question, to introduce, in this connection, some thoughts, as to what I conceive to be the relations, which the States ought to recognize towards the negro, in consequence of the results brought about by the recent war; but this has been so well and ably done by the gentleman from Kanawha (Mr. Fitzhugh), who has preceded me, that I will not detain

the house with further discussion of the subject. Allow me, however, briefly to add, that *war legislates*, as well as Constitutions and Congresses, settles principles and announces judgments, as authoritative and binding as any that can emanate from Bills of Rights, or decisions of courts, or the stipulations of treaties. A great philosopher has called decisive battles “the signal promulgations of the judgments of God.” When nations disagree—when the stipulations of treaties are disregarded—or their interpretation is uncertain—the appeal is to arms, and the sword at last settles the controversy. So, when the States differed in their interpretation of the common Constitution, over their reserved sovereignty, it was claimed, there was no final tribunal to which the controversy could be authoritatively referred, and what was left but the appeal to arms. It was fearfully made, and conducted with a gallantry and courage that knows no parallel. The decision came. It was hardly won and grandly lost. What was the decision? It was that the negro must be free, an edict not of the Lincoln proclamation, but of the surrender of Lee. When this was done all else followed as legitimate consequence by the logical operation of the fundamental principles upon which our whole fabric of government is built. Amendments to the Constitution were simply the entering up the verdict, the adjustment of the instrument to the decree. The moment the negro was free by irresistible inference he was a citizen, and as a citizen a voter, and as a voter eligible to anything his vote could confer—eligible to office. Not to see this is to overlook the source in which all the powers of government reside; not to admit this is to place ourselves in antagonism to the irresistible genius of our free institutions. This is the argument. I submit the application to the intelligence and the patriotism of the Convention.

5. Mr. President, one thought more, sir, and I will trespass upon the patience so courteously extended to me, no longer. Other gentlemen have alluded forcibly and earnestly to the consequences, which may result from the adoption of this prohibition, not only upon our recognition as a State in the next

great contest for the Presidency, but especially on the question of amnesty, which we so solicitously seek for our friends, here and everywhere. I cannot shut my eyes to the fact, that the adoption of this proscription, will be regarded as a fitful resistance to the conceded results of the war, and evidence of a spirit, that will justify still further delays in reinstating many of our valued and needed patriots and statesmen in the full rights of freemen. We cannot afford this hazard, for the sake of an idle abstraction against the negro. I know that some gentlemen think there is nothing in this apprehension. The gentleman, my esteemed and courteous friend from Jefferson, (Mr. Travers), has pointed us to Virginia. He has drawn, in colors that touched our hearts, the picture of her desolation. I confess the weakness of my feelings, whenever this subject is even alluded to,—much more when presented in the vivid colorings of his exalted fancy,—for she is my native State, and I love her with a devotion, none the less that she is in misfortune—bowed down with crushing calamities. My family and my name are a part of her history—of her greatness and her ruin, and I almost forget the practical question, which is before us, in listening to the eloquent indignation of my friend.

But, sir, I cannot concede, that the policy of Virginia has been either dishonorable towards the great men, who led her in council and in war, or unfruitful of good to her as a State. I know her well—know the spirits of her people—and they are incapable of desertion such as the gentleman ascribes to them. Their course has been taken advisedly—taken with approbation and under the advice of the heroic men, who could not share with them, the political restoration which they, nevertheless, counseled them to accept for themselves, their children and their State. It was their bitterest trial, and had the illustrious leaders in whom they confided, the noble hearted Lee to whom they looked up with a devotion only less than idolatry, counseled differently—had he said, “Despise the overture, spurn it, spit upon it, put your heel upon it and stamp it into the dust.” Who that knows them, doubts—they would have done it?

But sir, they were wiser and greater than this. They prayed for victory—not revenge—and has it not been best? Like her noble son, the Father of our Country—she was first in war, and first in peace. In the beginning, she was foremost to erect her impregnable crescent against the advancing wave of coercion—and in the end, she was also foremost, to take her place in the quiet ways of peace—she accepted at once, all that was conceded upon the fatal field of the Appomattox, and today, she is foremost in the administration of the world, and the return to prosperity.

“ * * * She has left behind
Powers that will work for her—air, earth
and skies;
There is not a breath of the common wind
That will forget her—she has great allies,
Her friends are exultations, agonies,
And love, and man’s unconquerable
mind ”

We are part of her, in her illustrious past—part of her in her present disabilities, let us follow her, in her ready and complete adjustment to the results of the war, and put away from us this last remaining element of discord, that can afford, even a pretext, for longer proscribing from the public offices, the Statesmen and patriots, whose services we so much need; and as it has been best for her, it will be best for us.

Remarks of Hon. C. J. Faulkner, in the Constitutional Convention, March 16th, on the Proposition to Exclude Negroes from Eligibility to Office in West Virginia.

Mr. Faulkner, after alluding to an affection of his eyes under which he had been suffering for the last twenty-four hours, and which disqualified him, in a great measure, for attention to the proceedings of the body, and referring to the local condition of the county of Jefferson in explanation of the course pursued by its more immediate representatives, proceeded to remark that he had come there to assist in the preparation of a Constitution, not for a part, but for the entire State; not for a particular class of its citizens, but for every person within its limits who was recognized by its laws as entitled to protection. In his public addresses in the county of Berkeley, and in the two which he had made in Jefferson, at which his eloquent and accomplished

colleague, Mr. Travers, was present, he had with great emphasis declared, that he would give his support to no organic law that did not protect the rights of every citizen, without distinction of party and without distinction of race, color or condition of life. If any exceptions were taken to these opinions, those exceptions, so far as he was aware, did not manifest themselves at the polls.

It was true, the colored voters of the district did not seem to credit the sincerity of his declarations, for he believed he had not received one colored vote in his election. He had no feeling of resentment to them on that account; he did not seek their suffrages; he stood as a Democratic nominee before them, and a people less credulous than they, in view of the late course of the Democratic party, might well have been disposed to suspect that their rights and liberties might be placed in safer and more friendly hands than those of a Democratic nominee.

It required few words on his part to express his views of the question now under consideration. The harvest of this debate had already been gathered by the sturdy and eloquent reapers who had preceded him in this field of labor. He returned his thanks to the gentleman from Marion (Mr. Haymond), to the gentleman from Taylor (Mr. Martin), the gentleman from Barbour (Mr. Woods), and the two gentlemen from Wood county (Messrs Jackson and Johnson), who had reflected so much credit on themselves and on the Convention by their able vindication, on yesterday, of the principles of constitutional toleration involved in this debate. To-day the same proposition had been illustrated by the logic of the gentleman from Kanawha (Mr. Fitzhugh), and by the learning and philosophy of the gentleman from Brooke (Mr. Pendleton). Without making any discrimination as to the relative merits of these respective arguments, he must be permitted to say that there were portions of the speech of the gentleman from Wood (Mr. Johnson), that had touched his sensibilities most deeply, and especially that portion of it, in which struggling with the embarrassments of his previous error on this subject, he gave such elo-

quent expression to the more recent convictions of his honest mind.

Some gentlemen had placed their support of his (Mr. F.'s) amendment, and appealed to others to give a like support to it, upon the ground that it might hasten or propitiate the authorities at Washington in removing the disabilities under which so many of our fellow citizens labor. He (Mr. F.) was one of those proscribed individuals, but he hoped that no gentleman upon that floor would, so far at least as he was concerned, swerve in the slightest degree from his convictions of right and duty, from any such consideration. He desired no office under the State or Federal Government. With the close of his labors in this Convention, he expected to take leave of public employment forever. It was true, he would like to see his disabilities removed, but not that he might hold office. He was not conscious of being a culprit; he had served the country, both in the State and General Government, at home and abroad, with fidelity, and he wanted no cloud of any kind to rest upon his name when he ceased to remain upon this earth.

This question had been discussed as if we were now seeking to confer upon the colored citizen some new right which he does not at this moment possess. This is an incorrect view of the proposition before this body. By the existing Constitution of this State, a colored citizen possesses every civil and political right which belongs to the white citizen. The question, then, before us is, shall we, so far as we have the power, disfranchise and deprive of their legal and Constitutional right of eligibility to office, some three thousand persons now residing in our State, whom we recognize as citizens, possessed as fully as ourselves of all civil rights, and clothed by our own Constitution with the elective franchise—the most sacred and responsible trust that can be devolved upon a citizen. It seemed to him that in the light of the nineteenth century, and in the full blaze of the exciting events of the last eight years, the simple statement of the proposition should carry conviction to every mind. For his part, he could never sanction such wholesale disfranchisement. In giving any such vote, he would be false to the record of his past life, and un-

mindful of those declarations which he had made before the people during the canvass.

His distinguished colleague, Mr. Travers, thinks that eligibility to office is not one of those rights, to be deprived of which gives any man a just ground of complaint. Such is not the opinion of the many thousands of individuals in the South who are at this time laboring under the penalty of ineligibility to office. Such was not the opinion of the people of the United States when, as the only punishment for the attempt to overthrow the government, they imposed ineligibility to office. Such is not the opinion of the countless petitioners who, for the last three years, have been besieging Congress with importunities for relief from this disability. Such is not the opinion of the great Democratic party of this country who, if this disabling statute shall not be repealed before the next Presidential campaign, will make at one of the prominent and distinguishing issues in that election. No man, it is true, has a right to demand the support of his fellow citizens for office. It should be their free and spontaneous gift. But every freeman should have the right to be the recipient of their confidence if they think proper to bestow it upon him. To declare a person unworthy of office or public trust, is to proclaim his inferiority, if not his infamy; it is to fix a mark upon his forehead; to separate him from the rest of the community by a clear and well defined line of degradation; to assimilate his condition to that of a pariah of Hindoostan, and to make him an enemy and depredator upon that society of which he might otherwise be an useful member. Ineligibility to office in this State, so far as men of mature age are concerned, is one of the punishments annexed to the most infamous crimes. He, (Mr. F.) had no authority, certainly no instructions from his constituents, in dealing with the interests of any of the citizens of this State, to treat color as a crime, or ignorance as a felony. He had had no agency in elevating the black man to those rights of citizenship which he enjoys in this State; but since it had been done by competent legal and Constitutional authority, he would respect and protect his rights. If evils shall

result from this policy, none of its responsibilities attach to him, and all that is left to him will be to battle manfully with those evils, and to seek to remedy and redress them as the best interests of society may require.

The gentleman from Tyler (Mr. Johnson,) and the gentleman from Jefferson (Mr. Travers), have both referred to an opinion expressed by him a few days ago in Convention that there was nothing in the Fourteenth or Fifteenth Amendments of the Constitution of the United States which imposed any restraint upon the people of West Virginia in declaring a colored citizen ineligible to office if such should be their will and pleasure. He (Mr. F.) had expressed that opinion, and such was his opinion still. His course upon this question was not determined by anything in the Federal Constitution, but by rights given and secured by the Constitution of this State. It was further determined by considerations of public policy, public justice and of public faith. He did not admire the reasoning of those gentlemen who were prompt enough to acknowledge the rights of the colored race where required to do so by the overshadowing authority of the people of the United States, but who, in retribution for that concession, were equally as prompt to proscribe, punish and oppress them where the limits of compulsion ceased. He was disposed to pursue a more liberal and magnanimous course toward them, and while socially he would interpose an impassable gulf between the two races, yet he would retain and secure to them every civil and political right which they now enjoy under the Constitution, and would liberally use the means and resources of the State to elevate them as moral, religious and political elements of the community of which they were members.

While he conceded that the fourteenth and fifteenth amendments did not impose any obligation upon this State to make the colored citizen eligible to office; still all must concede that it was the manifest purpose of the Constitution to place them in a condition where every political right would be secured to them as effectually as it is secured to the white man. This is not

done in terms by those amendments, and the reason why that protection was limited exclusively to the elective franchise, he thought could be readily explained. The originators of those amendments were not looking to the condition of the colored race as it is now found in West Virginia, where it scarcely an appreciable element in her elections; they were looking to that race as it existed in all the Southern States of the Union where their numbers are so formidable that to secure to them, in any of those States, the elective franchise, is to give them the means by which every other political right must be secured. Thus, in every Southern State, the elective franchise and eligibility to office are concomitant and inseparable rights. It was not supposed that in those States where their numbers were few and their influence utterly insignificant, there could be any motive for the application to them of a proscriptive policy that would inexorably and by constitutional disqualification, debar them from all participation in public employment.

He (Mr. F.) would not again, as he had so fully done a few days ago in the Convention, go into any examination of the statistics of that population in West Virginia. His views upon that subject had not been controverted on the floor. He would simply repeat that of the ninety thousand votes in this State the colored vote amounted to about three thousand, which was at the rate of one in thirty; that in a large majority of counties, it did not form an appreciable element in the election; that only in four counties did it reach to one in ten, and that only in one county in the State did it amount to one-fourth, and from his knowledge of the condition of things in that county he would say there was not a county in the State in which the black man had less chance of obtaining official employment.

Did any gentleman upon that floor doubt that since the fourth Thursday in April, 1871, the colored citizen was eligible to office in this State? By a decisive vote of the people cast upon that day, he was invested with all the political rights enjoyed by the white man. He was made a voter by the existing Constitution, and as such, became possessed of all the rights of a

voter under that Constitution, one of which is eligibility to office. From whence, then, does this body derive its instructions to disfranchise him; to deprive him of a right which he now enjoys under the Constitution, and to place him under a perpetual disability to enjoy that right hereafter. He (Mr. F.) had heard no complaint of that provision of the existing Constitution; no voice of instructions, no memorials from the people; nor had he seen in a single journal of this State any suggestion of such a change in our fundamental law.

As the gentleman from Marion (Mr. Haymond) so well said on yesterday, if this were an original question—if he were now called upon for the first time to decide whether he would confer the right of suffrage and the right to hold office (for they are in their nature concomitant and inseparable rights) upon the colored race, he would pause long before he would consent to do so. He would have exacted some preliminary pupilage—some previous preparation and training—for the exercise of such a sacred and responsible trust; but when he found them, as he did now, in the quiet and peaceful enjoyment of those constitutional rights; when he knew they formed a part of the political community which by its votes overthrew the monster proscription on the fourth Thursday in April, 1871; carried a call for the Convention in August, 1871, and that they are now constitutionally represented in this body by their votes cast in October, 1871, how could he now apply the axe to the destruction of any of their existing political rights without violating every principle which he held sacred, and for which he had been battling for the last seven years.

He, (Mr. F.) had commenced this war against proscription, and had continued the battle until all its strongholds in this State were overthrown and demolished. "War against proscription" was the Shibboleth of the conservative and Democratic parties until final victory crowned their arms. This Convention was one of the first great fruits of that victory; and now, here upon that very altar which liberty and reform had erected as the shrine of her worshipers, appears that same veil spirit of proscription against which we

had battled for so many years, and which is luring us on to that grave in which our opponents lie buried. He, (Mr. F.,) came here the sworn enemy of prosercription; he came here to eradicate and eliminate from that system every trace of that detestable policy; to batter down all unjust, invidious and arbitrary discriminations among his fellow citizens; to place every citizen upon the same platform of civil and political rights, and to trust to the genius of free and popular government to rectify and redress every evil that might result from the broadest concession of popular equality and popular rights.

This hostility to the eligibility of the colored man to office in a State like West Virginia, when their numbers are so few, and their power so weak, is a broad declaration of want of confidence in the intelligence and capacity of the white race for self-government. In what district? in what township? in what county of this State, can a negro be elected to office, except by the votes of white men? And if he be that ignorant, degraded, and uncivilized creature which gentlemen represent him to be, was it not a satire upon popular government? was it not an imputation of the deepest character upon the virtue and intelligence of the people to suppose that he ever could, through their influence and votes be elevated to office.

He (Mr. F.) was not much given to profession, but he had ever cherished an abiding confidence in the good sense of the people, and in the success of free government. Sad, indeed, would our condition be if anything should occur to destroy that confidence; for our eternal destiny is fixed, and popular government, in its broadest and most unlimited character, is, and forever must be, our condition. We have embarked freely and deliberately upon the broad and tempestuous ocean of popular sovereignty.

"Dark, heaving, boundless, endless and sublime."

With no magnet to direct our course, no shelter from adverse storms and currents, but in the virtue and intelligence of the people. If these fail us, then indeed shall we be shipwrecked, and the engulfing waters of anarchy and des-

potism will forever bury our proud hopes as a people under its surface.

Mr. F. said that he could not see what there was in his amendment which any gentleman upon that floor could disapprove. It was a literal transcript from the existing Constitution of the State. He took up that Constitution upon this particular point, just where the people of this State left it by their vote cast on the fourth Thursday in April, 1871. Then and there, by the most overwhelming vote ever cast in this State, they fixed the political status of those persons whose rights are now the subject of our consideration. He adopted it just as the people impressed their supreme and sovereign seal upon it, on that day. He added nothing, he detracted nothing from their imperial decree. If, under that decree, these people had acquired constitutional rights, his amendment reaffirms them; if under it they have acquired a doubtful and uncertain right, or no rights at all, his amendment does not extend it. He stood upon the voice of the people as there proclaimed and announced, and his amendment simply demanded that a voice, so solemnly and authoritatively proclaimed, shall be respected and obeyed

Col. Ben Wilson on the Flick Amendment and the Right of Negroes to Hold Office.

Mr. Wilson, of Harrison, said he was instructed by his people upon this subject. They desired to have the word white inserted and the question settled that none but the white race shall ever hold office in this State. It was his pleasure to obey the wishes of his people and oppose the amendment of the distinguished gentleman from Berkeley. This amendment proposes to leave this section of the Constitution substantially if not precisely as the Flick Amendment made it; and notwithstanding, as had been urged upon this floor, that amendment received the sanction of a majority of the Democratic members of two Legislatures and was ratified by a large popular vote, his county (Harrison) gave a large and decided majority against it. But this action of the people was not induced by a desire to confer upon the negro additional

privileges; it was for the relief of our own race and color.

An original proposition to make the negro eligible to hold office would receive at the hands of the people of the State but little favor. His emancipation, settled by war and sealed with blood, is irrevocable. We admit it, and he has the benefit of it. But we have gone farther in the line of his relief. We tax ourselves and our property to educate his children, protect his life and property.

In addition to all this, we have gone further and conferred upon him the right of suffrage—the right to vote at and control our elections. And we are asked to go one step farther and make him eligible to office. My people are opposed to it, and, rendering a cheerful obedience to their wishes, I shall vote, no.

Remarks of Col. D. D. Johnson, of Tyler County, in the Constitutional Convention, on the Eligibility of Negroes to Hold Office in West Virginia.

The Convention having under consideration the proposition of Mr. Faulkner, to strike out of section 4 of article III., these words, "Any white citizen entitled to vote, may be elected or appointed to office," and insert "No persons except citizens entitled to vote shall be elected or appointed to any State, county or municipal office," Mr. Johnson, of Tyler, said:

Mr. President—It is with a feeling of sadness, bordering on despair, that I arise to address this body. I have heard strange doctrines enunciated upon this floor during the last two days—strange, not so much in their substance, as in the source from which they came. Had they been uttered by the gentlemen from Monongalia (Mr. Willey) or by the gentleman from Upshur (Mr. Farnsworth) I would not have been surprised, but coming from men who profess adherence to the time-honored principles of the Fathers of the Republic, transmitted to us through a long list of noble patriots, my young heart was pained, as they fell upon my ears, admonishing me that our boasted liberty was but an idle dream. Sir, we are told that the

Federal Government is omnipotent, that by the majesty of its power, it obliterates State lines, and dictates the domestic policy of the States, and that we the representatives of the people of the State of West Virginia in sovereign Convention assembled for the purpose of framing the fundamental law of the State, must at our peril prescribe that an office within our State can only be conferred upon a white man; that the General Government will arbitrarily and illegally assume the powers to nullify and prescribe which we may incorporate in our fundamental law which is displeasing to the political party now controlling the Government of the United States. Sir, I thought it was the special prerogative of the Radical party to proclaim such monstrous doctrines; and that the Democratic party would not admit, either by word or deed, that such doctrines could be tolerated for one moment in our Republican Government, and when, a few days ago, the gentleman from Berkeley (Mr. Faulkner) offered his amendment to the Bill of Rights, announcing the principle upon which the Federal Union was founded, and declaring that it was the duty of all departments of the State government to faithfully guard the rights of the State, and protect them from all encroachments of federal power, my heart beat a glad response thereto, and I thank God that here, among the mountains of West Virginia, the fires still burned upon the altar of Liberty, and that we are yet determined to pursue our liberties by defending the Constitution of the United States and the rights of the States thereunder.

This is no idle discussion; for if the position assumed by gentlemen who favor the pending proposition, be true, then I look with fearful forebodings to the future of our country; as away down the misty future I behold a picture that will thrill with terror the stoutest heart, and I am fully persuaded that the only manner in which the danger can be avoided is by a firm adherence to the principles upon which the Federal and State governments are founded.

If the Federal Government has the power to nullify any act that we may do, or declare any provision that we may incorporate in this Constitution

void, then why sit we here longer? then in the bitterness of our degradation, like Marshal Benedek on the bloody field of Sadowa, exclaim, "All is lost save life, and would to God that were lost too." Why not bow our necks in humble submission, receive the yoke of bondage, and return to our homes to live the life of a race of slaves? Sir, I repudiate *in toto* the doctrine of the omnipotence of the Federal Government in the domestic affairs of the State; yet, I am compelled to confess that during the last seven years that government has made rapid progress in dangerous encroachments upon the rights of the States, and that the political party who committed these usurpations, still has the control of the government; and, if we may "judge the future by the past," and that party still continues to control the government, but a few years will suffice to completely consolidate the government of these States and effectually destroy the liberties of the people.

If the rights of the States to regulate their own internal affairs should be destroyed, and these rights conferred upon the Federal Government, with our hundred millions of people spread over these States, with their diversified and somewhat conflicting interests, all to be regulated by our government, can any one believe that that people would be contented, happy and prosperous? Such a government could not be maintained. Our fathers saw all this, and to provide such a government as would secure peace, prosperity and happiness, they created a Federal Government with limited external power, reserving to the States exclusively the power to control and regulate the internal or domestic affairs thereof. And they have repeatedly declared that any departure from this fundamental principle was sure to be disastrous, and, if persisted in, would bring desolation and ruin upon this people.

Sir, I have faith in the declarations of the fathers, and with the experience of the last ten years, the wisdom of their declarations is fully proven. We need but look to our sister States to see the practical effect of a departure from this principle; see them writhing under a military despotism, then subjected to the domination of the most degraded,

ignorant and superstitious of the human race. These encroachments upon the rights of the States have convinced me, without going further, that liberty unguarded is sure to be destroyed, and now in the dark hour of its peril, I call upon the members of this Convention to throw themselves into the breach, and resist all further encroachments, and bring our government back to the principles upon which it was founded.

I believe that it is conceded that we have the *Constitutional right* to prescribe the qualifications for holding office. The distinguished gentleman from Berkeley (Mr. Faulkner) says there is no constitutional or legal difficulty in the way that will prevent us from requiring that an officer of this State shall be a white man, and I believe all the other members who advocate the pending proposition take the same view of this subject. But they tell us that they will incur the displeasures of the powers at Washington and put the existence of the State in peril. The gentleman from Marion (Mr. Haymond) warns us of the fatal consequences that must follow if we insert this word "white" in our Constitution, and points to the fact that the Congress of the United States annihilated the Legislature of Georgia because that body declared that negroes could not occupy seats in the Legislature of that State. Sir, that usurpation of Congress was founded upon that absurd and monstrous proposition contained in the preamble of the reconstruction acts. The first assertion of the falsehood that I am combating to-day, is not upon any constitutional prerogative, and therefore is not applicable to the case before us. Let me ask if this power is so absolute, or if Congress is so reckless in the exercise of this unwarrantable power, why has Kentucky not been reconstructed? Why is it that her Constitutional provisions and legal enactments are not abrogated by this central power? Is it because they find there a spirit of manliness that they dare not disregard? Proud old Kentucky! The eldest daughter of the Mother of States. Our eldest sister, by her firmness and earnest defense of the principles of liberty commands the admiration and respect of every patriot in our land. To day she stands almost the only

fortress of the faith of our fathers, and although the waves of fanaticism and the billows of encroachment of Federal power have dashed against her solid ramparts, still she stands firm and erect, the refuge of liberty. Why has not Maryland and little Delaware been crushed? The attempt was made, but why not consummated? Sir, it is because these States resisted the encroachments of Federal power. I think I may truly say that these high-handed usurpations have been accomplished only where there was an unresisting yielding or a tacit invitation to the government to exercise the power.

The gentleman from Taylor (Mr. Martin) says that if we leave the word "white" in this section the Sumner bill will be passed by Congress, and we be arrayed against the laws of Congress. Is that gentleman also willing to bow his neck in humble submission to the usurpations of a partisan Congress and acknowledge in advance the supremacy of an unconstitutional enactment of that body? Gentlemen tell us that they love the principles that I am advocating—that every sentiment that I utter meets a glad response in their heart of hearts. But they say we dare not do it—the Government will annihilate us if we do. *Sir, let me tell that gentleman that I dare do anything that is right!* I shall defend the old ship, and if the worst shall come, when by the assault of the enemy she goes down, a wrecked, mangled mass, I shall go down with her, pointing to the colors, the emblem of her former glory, and, in burial, her shroud.

The gentleman from Wood (Mr. Jackson) tells us that there is a power higher than the State Constitution, which regulates the right to hold office in this State. Where is that despotic power which assumes to break down the State barriers and destroy the rights of the people? Or who is the despot who sits enthroned at Washington, and who by one fell swoop of his pen can nullify the laws of a State? Sir, I have not so learned the principles of our government, and I deny that there is any constitutional right conferred upon any one to exercise this power; and if it is an unconstitutional power, to exercise it is an usurpation which should be resisted by every legitimate means

in our power. But, he asks, what is to prevent them from reconstructing West Virginia? I answer, their oaths, and our firm resistance under the protecting care of the Constitution of the United States. If we but show our appreciation of these principles and manifest a determination to stand by them, they do not dare to interfere with these rights guaranteed to us by the Constitution which they have sworn to support.

But, sir, there is another phase in which this subject has been presented to us here to-day—an advanced position assumed by the advocates of this amendment—which I must confess I was entirely unprepared for. This argument is founded upon the assumption of the *equality of the races*. Sir, I think those gentlemen will have some difficulty in convincing their constituents of the correctness of this position. They will have to show that historians are liars, and history a tissue of falsehood. But I will not insult the good sense of the Convention in discussing this question here. The argument is not, as suggested by the gentleman from Brooke, (Mr. Pendleton) addressed to the prejudice, but to the reason, and proven by the stubborn facts of history. The different races have different inclinations which seem to be an inherent principle of their nature, which philosophers and moralists have as yet been unable to control. It is enough for me to know that these differences do exist and convince me of the impropriety, not to say madness, of attempting to associate them in our political government. Surely it will not benefit our race to admit an inferior race to the privileges of the offices of the State, and it can work no injury to them to exclude them from the offices and still permit them to enjoy the blessings of our free institutions; and I think the gentleman will utterly fail to show one instance where our advancement in science, art or general prosperity can be attributable to the political association of ours with any other race.

But the gentleman from Berkeley (Mr. Faulkner) says that we would do the colored race a great injury, and break our faith with them, by excluding them from the privilege of holding office. I have already answered the

first part of his argument, and I must confess that I am at a loss to know when and where we have pledged our faith to grant them this privilege.

(Mr. Faulkner here arose and explained that by the ratification of the amendment to our State Constitution last August, the right to hold office was conferred upon the negro.)

Mr. President, does not the gentleman know that that amendment was not prepared or supported by the Democratic party of this State for any such purpose, but, on the contrary, while confessing that it recognized the right of the colored man to vote under the Fifteenth Amendment to the Constitution of the United States, they declared its only effect would be to enfranchise about twenty thousand white citizens of this State who had been denied the right to vote by the proscriptive measures of the Radical party. This was the sole purpose of the Democratic party in ratifying that amendment, which would have been overwhelmingly defeated had it not been for its Democratic support. The negroes did not expect, nor the Democrats intend to confer the right to hold office by that amendment, hence there can be no breach of faith in the matter.

It is said that by rejecting this amendment we will endanger any proposition for amnesty that may be made. Sir, I cannot see what effect this will have upon the subject of amnesty. Certainly the late Confederates of this State have behaved themselves as good citizens ever since the close of the war, and I believe no complaint has been made against them, personally, on account of any act of theirs since that time. The Government of the United States has had full and ample time to grant amnesty if it desired to do so; but it has not done it, and I cannot see that any further act upon their part or upon ours will commend them to the favor of a vindictive and tyrannical power. It seems to me that the fiendish thirst for vengeance of the Radicals can never be satiated. Their ears are closed to the cry of mercy, and I fear they never will realize the enormity of their sin of unforgiveness until they are brought before the bar of God, where mercy is only given to the merciful. I would not place the slightest obstacle in

the way of amnesty, but I would not obtain it, did I need it, by a servile fawning at the feet of usurped power.

Mr. President, I very much dislike, in any public assembly, to indulge in the discussion of matters of a personal nature, but, sir, I must notice the remarks of the gentleman from Barbour, (Mr. Woods). He said that in this matter of proscription I was not altogether blameless; that I helped to bring about this state of affairs and must share a part of the responsibility. Sir, had that remark fallen from the lips of the gentleman from Kanawha (Mr. Fitzhugh), or the gentleman from Greenbrier (Mr. Mathews), or any other gentleman who proved his devotion to the Lost Cause upon the bloody field, I should have felt the keen thrust more deeply than I do, coming as it does from a non-combatant. I exonerate these brave men from all sympathy or participation in that unkind remark. But is it true that I helped to bring about this state of affairs? Believing in 1861 as I do now, that the liberties of the people depended upon the preservation of the Union, with the rights of the States under the Constitution unimpaired, I "proved my faith by my works," and having assisted in accomplishing the former I have never ceased to battle for the latter, although cruelly deserted by many of those who stood with me. I planted myself squarely upon the famous Crittenden Resolution, "That the war is not prosecuted on the part of the Government for any purpose of conquest or subjugation, but to preserve the Union and maintain the rights of the States under the Constitution unimpaired, and when that object is accomplished the war ought to cease." This, sir, was my platform, and as soon as I had sheathed my sword I mounted the rostrum and plead for the restoration of harmony and good feeling, and protested against the enactment of any measure of a proscriptive character. I was among the first, if not *the* first, to publicly raise my voice against radicalism in the State, and I think I have done the party and the State some service, which at least should shield me from the aspersions of the gentleman from Barbour. That gentleman says that I "ought not to expect this Convention to forsake the great principles

which underlie this great government" and follow my erratic counsels. It is conclusive from his argument that by the term "*great principles*" he means "equality of the races." Let me ask, when did the gentleman become a convert to these "*great principles*?" Has his record been so consistent that he can appeal with confidence to this Convention to ignore all that I have said and implicitly follow his counsels? Sir, I do not boast of my record, neither do I claim to be infallible, but I challenge that gentleman to name one instance of inconsistency or wavering fidelity in the course which I have pursued. Let those who know us both judge between us.

Mr. President, I hope that members of this body will have the moral cour-

age and self-sacrificing elevation to this great principle of self-government, to throw themselves once more into the breach; once more raise their hands and voices in defense of the right of the States to regulate their own domestic affairs their own way; help to secure our liberties from the encroachments of Federal power; encourage our brethren of sister States to maintain the balance of power between the State and Federal Government which was so wisely created by our fathers; then will the greatness and glory of this great Republic shine forth as the noon-day sun and the nations of the earth be convinced of the truth of the declaration that man is capable of self-government, and that a republic can stand the shock of civil war.



