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THE NEGRO QUESTION.

I. THE LAWS NOW REGULATING SUFFRAGE.

On January 5, 1867, Andrew Johnson closed a message to the United States Senate vetoing the District of Columbia Suffrage Bill in these words:

> "After full deliberation upon this measure I cannot bring myself to approve it, even upon local considerations, nor yet as the beginning of an experiment on a larger scale. I yield to no one in attachment to that rule of general suffrage which distinguished our policy as a nation. But there is a limit, wisely observed hitherto, which makes the ballot a privilege and a trust, and which requires of some classes a time suitable for probation and preparation. To give it indiscriminately to a new class, wholly unprepared by previous habits and opportunities to perform the trust which it demands, is to degrade it and finally to destroy its power; for it may be safely assumed that no political truth is better established than that such indiscriminate and all embracing extension of popular suffrage must end at last in its destruction."

The bill vetoed conferred upon negroes residing in the District of Columbia the right to vote.

Poor "Andy" Johnson (almost a martyr in American history) then stood alone a singularly courageous man, vainly, almost insanely, striving to stem the swift, angry, current of public opinion which swept like a mill race over the country, burying him a thousand fathoms deep in the sea of a temporary obliquity. But truth crushed to earth will rise again, and strange phenomenon of history, the ex-President, who went to his grave unwept and neglected, now receives his vindication from the North, the section of the country which most bitterly opposed him!

It has taken thirty-six years for the passions of men to subside, and their prejudices are not yet entirely effaced. After grinding slowly and exceeding fine, the mills of the gods have so tempered the minds of mortals, that a dispassionate and independent discussion of the status of the negro, in his relations to the law and society, can now be made. The effort to change the intellectual and political character of this race, not by the necessary and progressive processes of education and culture, but by an artificial and unhealthy transformation through the brute force of constitutional amendments, is admitted to be a dismal failure. The best friends of the negro now see that the chasm between enfranchisement and political suffrage was too wide to be spanned without the aid of educational probation and training, and the negroes of the South find themselves sprawling, in hopeless confusion, at the bottom of a chasm into which they have fallen—victims of a short-sighted, reckless and thoughtless policy of political elevation.

In the attempted solution of this great question it is first necessary to understand the strictly technical rights of the negro as they now exist under the Constitution and laws of the United States.

The abolition of slavery, which is universally accepted as a real blessing to those who lost their slaves and to those who gained their liberty, was quickly followed by constitutional amendments intended to permanently fix the rights and status of the black race in this country. The 13th amendment, adopted December 18, 1865, declared

> "That neither slavery nor involuntary servitude shall exist within the United States or any place subject to their jurisdiction."

A little less than six months after this great event (June 16, 1866,) Congress proposed the 14th amendment, by which

> "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";

and it was further declared

> "That no State shall make and enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

The second section of this amendment provided for the apportionment of representatives among the States and declared

> "When the right to vote at any election for the choice of electors for President and Vice-President of the United States, representatives in Congress, the Executive and Judicial officers of the State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such States being 21 years of age and citizens of the United States, or in any way prejudiced, except for participation in the Rebellion or any other crime, *the basis of representation thereof shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens 21 years of age in such State.*"

This amendment was declared ratified July 28, 1868. It was quickly followed by the proposal of the 15th amendment (27th February, 1869,) declaring

> "That the right to vote shall not be denied or abridged by the United States or any State on account of race, color or previous condition of servitude."

This last amendment was declared ratified March 30, 1870; and thus, in less than five years, these important additions to the organic law, which, by taking away from the States the power to regulate and control suffrage, materially altered the basis of a true federation, were proposed and adopted by the people, through the legislatures. In each of the amendments there was a provision inserted giving Congress power to enforce these articles by appropriate legislation.

Although the 14th amendment was for some time after its enactment assumed to have been passed for the sole benefit of the blacks, this view was quickly dispelled by the Supreme Court of the United States (notably in the Slaughter House cases), and its broad language was, and has been, used as an ægis to protect all persons without regard to color or race. Indeed most of the decisions under it

have arisen in disputes involving the rights and property of the whites, and not a few of them have been contests where the Chinese sought protection under the amendment.

The practical effect of these amendments was (1) to make *all* persons born or naturalized in the United States and subject to its jurisdiction *citizens* thereof and of the States wherein they reside; (2) to say to the States "if you deny or abridge the right of suffrage to any *male* inhabitant over 21 years, the basis of your representation shall be proportionately reduced"; and (3) the people of the United States "Prohibit you (the State) to deny or abridge the right of citizens to vote on account of race, color or previous condition of servitude."

The 14th and 15th amendments to the Constitution of the United States, together with the reconstruction acts passed by virtue thereof, forced negro suffrage upon the South, and for a number of years the view was entertained that there was no legal escape from the dreadful consequences which would ensue from a literal execution of the organic law—in fact the Southern States were deluged with bad governments and consequent misrule during the whole reconstruction period—not the fault of the negro but of the men who used and duped him.

The history of the last thirty-six years illustrates very forcibly the futility and powerlessness of laws intended to operate against natural conditions. Once extricated from the meshes of military rule, which the federal laws had woven around them, the whites in the Southern States engaged in an endeavor to prevent the blacks from voting, *as a mass.* This was accomplished by not counting their votes; by enacting election laws so intricate and obscure as to deter them from voting, or by discriminating against them at the polls; or by constitutional provisions, which were on their face applicable to all citizens, but were aimed at and intended to operate especially against the blacks. On the one side of this political condition in the South there loomed up in commanding array the fourteenth and fifteenth constitutional amendments, and the Federal Statutes enforcing them; on the other side were the interests, welfare, prejudices and wishes of the solid white race operating against them.

Of course, as history has always demonstrated, the effect of a contest between positive law on the one side, and natural conditions or customs on the other, was that the constitutional amendments were disregarded and overridden. But when the decision of the

Supreme Court in Williams v. Mississippi (170 U. S., 213) came, the bitter contest was somewhat softened, and through that decision the Southern States finally have been enabled by constitutional provisions to control the political destinies of their respective governments, which, although violating the spirit of the federal amendments, preserved their letter. The Supreme Court of the United States in that case, through Mr. Justice McKenna, said:

> "The provisions in section 241 of the constitution of Mississippi prescribing the qualifications for electors; in section 242, conferring upon the legislature power to enact laws to carry those provisions into effect; in section section 244, making ability to read any section of the constitution, or to understand it when read, a necessary qualification to a legal voter; and of section 264, making it a necessary qualification for a grand or petit juror that he shall be able to read and write; and sections 2358, 3643 and 3644 of the Mississippi Code of 1892, with regard to elections, do not, on their face, discriminate between the white and negro races, and do not amount to a denial of the equal protection of the law, secured by the Fourteenth Amendment to the Constitution; and it has not been shown that their actual administration was evil, but only that evil was possible under them."
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> "It is not asserted by plaintiff in error that either the constitution of the State or its laws discriminate in terms against the negro race, either as to the elective franchise or the privilege or duty of sitting on juries. These results, if we understand plaintiff in error, are alleged to be effected by the powers vested in certain administrative officers."
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> "Besides the operation of the constitution and laws is not limited by their language or effects to one race. They reach weak and vicious white men as well as weak and vicious black men, and whatsoever is sinister in their intention, if anything, can be prevented by both races by exertion of that duty which voluntarily pays taxes and refrains from crime."
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> "It cannot be said, therefore, that the denial of the equal protection of the laws arises primarily from the con-

> stitution and laws of Mississippi, nor is there any sufficient allegation of an evil and discriminating administration of them."

These views are substantially confirmed by the very recent decision of that high tribunal in the Alabama case.

It would seem to follow from the above declarations that if the State of New York, by constitutional measures, uniform in their operations, minimized her suffrage to 500 voters, the only effect would be to reduce her representation in Congress to one member (Article I, Section 2, Constitution of the United States) and two senators—which latter number can never be altered or taken away without the consent of each of the individual States; it being a fact never to be lost sight of (although strangely such sometimes seems to be the case) that the Senate is the direct constitutional representative of the States as States.

The preceding statement now prepares us to inquire what is the exact point involved in the present discussion? It is not to deprive all black citizens of the right to vote—to treat them as absolute foreigners. No one suggests, for example, that we should take away, or curtail, the right of the negroes who are citizens of the Northern, Eastern or Western States to vote. The discussion is restricted as to the blacks of the South. Nor is the proposition perpetually to exclude these last-named from the rights of political suffrage. The suggestion is temporarily to deprive them of suffrage, to put them upon probation, to quarantine them, until such time as they demonstrate an ability to intelligently and honestly cast a vote. Finally, it involves placing in the hands of the individual States the power to control the question, to determine and announce who shall and who shall not be entitled to vote within their respective borders. This means a retrograde movement in our constitutional history. It means we must retrace our steps and undo organic legislation which was hastily enacted after the rebellion; to take back that which was given.

A more serious problem could not be presented to a nation to solve; but I believe that the American people are competent to grapple with it and to decide it fairly and in good faith.

It is therefore of the deepest importance that the elementary principles of political suffrage should be understood.

II. Citizenship and Suffrage.

It is a popular belief that citizenship and suffrage are interchangeable. The contrary is the case. The right to vote and citi-

zenship are separable. A person may be a citizen of the United States and of the State in which he resides, and yet not possess the right to vote either at a State or Federal election. Many citizens cannot vote, but every person who does vote must be a citizen. Subject to a reduction of representation in the federal legislature as provided in the fourteenth amendment, the States can establish a general and uniform rule that no person shall be entitled to vote who cannot read or write; or they can establish a property qualification applicable to all citizens; and those who fail to possess either of these requirements, as the case may be, whether black or white, cannot vote. Notwithstanding the Declaration of Independence proclaimed that

> "We hold these truths to be self-evident: That all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty and the pursuit of happiness,"

the word "equal" has always had a restricted meaning in its application to suffrage. The right of suffrage has been, and always must be, entrusted to the discretion of some power to adjust—to fix the age and qualifications of voters—and the people of this country originally left it to the respective States.

Accordingly, when it is said that the great principle of this Government is equality, it is not, and never could have been, intended to declare that all citizens were entitled to vote. The regulation of suffrage is necessarily arbitrary, even in a purely democratic government—which this is not. A moment's reflection will demonstrate this statement. The age of the voter has always been fixed at 21 years. Why? Because the wisdom of law-makers has concurred in holding that the age of 21 years is the point in an individual's life when it can be safely assumed that he is competent to exercise the most important prerogative of citizenship—to vote. Now there are numerous young men between the ages of 18 and 21 who are as competent to exercise the right of suffrage, or perhaps more so, than many above the latter age, but the former are arbitrarily excluded from a participation in active politics because they have not arrived at legal maturity. There is a certain hardship in this rule. In times of war young men between the ages of 18 and 21 are made subject to military and naval duty, and generally they are regarded as the best soldiers; yet, while forced to be soldiers and sailors, they have not the right to vote. Women are also arbitrarily excluded. Again, the residents of the District of

Columbia furnish a striking illustration of these views. They are deprived of suffrage and not only do not vote in matters appertaining to their municipality, but they are even excluded from participation in federal elections. Persons attainted of crime, and idiots and lunatics, are likewise prohibited from voting. These examples conclusively show what is most important to keep in view: that suffrage is a privilege existing in the hands of the State to be apportioned among her citizens in a purely arbitrary manner, subject now to the restrictions of the Federal Constitution as to uniformity and against discrimination of color or race.

It follows, therefore, that incompetency to vote is not of itself a mark of inferiority in a Government. Citizenship is the highest degree of civic membership, and the right of suffrage, while perhaps the most important, is only one of its attributes. The Chinese race amongst us has neither citizenship nor suffrage. We scarcely accord them the rights of denizens. This is inferiority, but not necessarily degradation, because it has been a recognized principle of international law that each independent state or nation has the undoubted right to exclude physically or politically any foreign class or race it sees fit. I accordingly maintain that, upon principle, the exclusion of the negro from political suffrage, while he retains citizenship, does not relegate him to an inferior state in the community, nor disentitle him to the full protection of the laws guaranteed by either Federal or State constitutions. If deprived of suffrage it would still leave him with citizenship and place him with many classes of whites which are also excluded.

III. The Theory upon which Suffrage is Based.

The dominating feature of this government is the rule of the majority. When the wish of that majority is announced, it is law, and individuals are henceforth governed by it. All governments are established and ought to be administered for the protection and well-being of the individuals who compose them. If the majority who cast their votes and make laws are not intelligent and patriotic, the rules which they adopt for the regulation of the people are likely to be bad. Hence it is a matter of primary, fundamental importance (a fact unhappily lost sight of too frequently) that citizens who vote should be intelligent, understand the institutions, and fully appreciate the public questions which they are called upon to decide. This may be called the pivotal point of democracy, because the corrupt or ignorant exercise of the ballot means the eventual destruction of the government.

The interval between adolescence and maturity, say between fifteen and twenty-one years, can be assumed to be probationary. When the youth of the country study our institutions, they are quarantined as it were until their faculties are sharp and comprehensive enough to understand, fairly and intelligently, the political questions which they are called upon to decide.

It has often been remarked that there seems to have been a Providence in the institution of slavery as it existed in this country. The original condition of the blacks in their native regions was that of the most appalling and hopeless barbarism. Slaves themselves at home, and the willing instruments in transferring slavery to more civilized countries, they were yet aiding in the evolution of their race, otherwise condemned to perpetual savagery. With all its evils, their condition here was preferable to that which they had left behind them, and it was not possible, all restrictive laws and sentiments to the contrary notwithstanding, that they should not partake in some degree of the benefits of the association with the superior race. They received the inestimable boon of the Christian religion; they became, to say the very least, *humanized.* But they were at the epoch of the Civil War far, very far, from even approximating to the requirements of a citizenship out of which could be made an intelligent, and by virtue of its function, and in the degree to which their numbers extended, a *dominating* democracy, whether pure or representative.

To take millions of ignorant people from a state of abject slavery and ignorance, in which condition they had existed for generations, and by a stroke of a pen to clothe them with the highest rights of citizenship, was a fundamental, pernicious and far-reaching error—a mistake which became absolutely cruel when it placed these voters in control and domination over the rights, liberty and property of a large class of cultivated and trained citizens. Of course it is easier to see this truth now than when our visions were clouded by the passion and prejudice which necessarily resulted from a gigantic civil war; and I mean to cast no undue reflection upon those who participated in the acts which we are now compelled to review. They were in the torrid zone of passion; we are in the frigid region of reason. But as our youth are compelled to undergo a certain probationary period, as foreigners are forced to reside in this country for five years previous to exercising the right of suffrage, it was nothing less than a radical infraction of the true principles of suffrage by one stroke of the legislative wand,

as it were, to suddenly endow those poor ignorant blacks with the power to vote. The act can only be explained or defended upon the theory that it was thought to be a necessary measure to insure the results of the war, and establish substantial governments in the South. Politically, this was perhaps a not altogether unwise solution of existing difficulties, however much it may have disappointed, in the result, the expectations of those who were its promoters. The same wisdom which taught the South to fully acquiesce in all the results of the war, in establishing a permanent union of the States, may now be used to restore to the people the absolute right to control their respective States. When a building is finished the scaffolding not only becomes unnecessary, but is offensive to the eye. The best friends of the negro, of which I profess to be one, are forced to admit, nearly forty years after the War, that negro suffrage in the South was a monumental error. This question cannot be regarded, at all, as one of race prejudice. It is one purely of what constitutes the necessary qualifications for suffrage. The same objections are urged against our youth under 21, and are also applied to foreigners who are candidates for citizenship. They may be applied equally to the totally unfit in morals or intelligence. Why should they not have been applied to the manumitted blacks? Why should they not have been compelled to serve a political apprenticeship? Why may not their *evolution* be still further extended?

Looking at the subject from this fair, and, as it seems to me, unassailable standpoint, the negroes themselves will perceive that no objection is urged against their exercise of suffrage which is not applicable to the whites, native born and foreign,—in the case of the Chinese being radical, and covering both citizenship and suffrage.

IV. Negro Suffrage in the North and in the South.

Further analysis of the question will show that the difference between negro suffrage in the North and South is fundamental. In the North, negro suffrage is scattering and desultory. In the South, it is congested and combined. In the North (I am not speaking by the card, but for illustration,) there are a hundred whites to one black. In the South, or in portions of it—geographical portions—there are a hundred blacks to one white. In the North, the negro vote is submerged in the mass of white voters. In the South, the negro vote overwhelms the white vote. In the North, the negro vote

is fairly intelligent. In the South, it is ignorant. In the North, the negro vote is divided between the two parties; or at least there is no impossible reason why it should not be so. In the South, it is a unit—invariably cast as one vote. In the North, the negro vote is so small that it can be independent; or so disseminated that at the very worst it can do little harm. In the South, it is so large that it solidifies. In the North, it can be discriminating. In the South, it is necessarily prejudiced. In the North, it can be combined and yet be harmless. In the South, its exercise must be hurtful.

Divide the negro vote of the South between the two great parties, and many objections now urged would be diminished but not removed. The equilibrium would be a safety valve, but it would not prevent frequent outbreaks of fear and passion, which would cause quick consolidation.

If all the negroes of the North were to concentrate their votes they could accomplish no political results. A combination of the negro voters of the South would mean the domination and control of the whites, and of all their property and rights.

So far as my observation and experience are concerned, and they cover a period of some twelve years, during which time I have been, through the ownership of large landed interests in Virginia, constantly thrown into communion with the whites and blacks in that section, the whites of the South have never objected to the exercise of suffrage by intelligent and decent black persons. The basis of the opposition has been to negro suffrage *en bloc*. The negroes, by casting one solid vote, as it were, for their own candidate, are enabled, if not prevented, to dominate and control the whites and their vast property interests—their fortunes, private and political—and their very lives. A mass of ignorant voters can rule the villages, towns, cities and States of the South, without regard to the true, best and ultimate interests of the whole people. The objection to the solid negro vote of the South is no different in substance to objections which might be, and often have been, raised in our large cities against government by a mass of ignorant voters, who, led by inflammatory and demagogic appeals, unite themselves into a solid voting body and, taking possession of municipal governments, introduce politics in opposition to the true interests of the community. The criticism of the whites of the South to the solid black vote is applicable to any condition where a congested mass of ignorant or corrupt voters cast their ballots for a man or

set of men and thus dominate the community. Suppose a predominating mass of ignorant and non-English-speaking Italians or Poles were, as soon as landed, precipitately transformed into citizenship by a suspension of the naturalization laws, and allowed to vote in New York City without the necessity of five years probation, and, acting together as one man, should be able to rule the municipality, what a cry would go forth from the mouths of the minority citizens—the persons interested in the property and welfare of the city? And yet this represents but faintly the true position of the South. The objection is not to the individual voter; it is to the mass of voters who cast their votes as a unit and for one candidate, with the added circumstance of a natural irremovable badge of race distinction. The Italian or the Pole belongs to a race whose antecedents we know and, in a generation or two, becomes indistinguishably blended with ourselves.

What care, what statesmanship, is required to deal with such a problem?

V. The Regulation of Political Suffrage Belongs to the Respective States.

The subject of political suffrage, including age, color and qualification of the voter, naturally and logically belongs to the States. It is not one of the powers which was intended to be, or should be, surrendered to the General Government in the formation of a true Federative Republic. Suffrage is a domestic, family question, not in anywise necessary for the performance of federal duties. Its exercise by the federal government is such an extensive encroachment upon the rights of the States, introducing unqualified centralization into our political system, that it should be viewed by all lovers of our Constitution with real apprehension.

The seizure of this State power, and its absorption into the Federal Constitution by the 15th amendment, was a direct violation of the federative principal—necessary, sustainable, perhaps, as a temporary war measure, but at the present juncture of our history wholly indefensible. Each State has and ought to possess a complete jurisdiction of this important subject. The delegates who represent the States in the Federal Congress are placed there in a great measure as agents of the States. While they act in a double capacity in Congress, there is no sound reason why the Federal Government should dictate the qualifications of voters, any more than it should undertake to regulate other purely domestic matters. And this was the spirit of the Constitution, for by section

2 of Article I of the Constitution it was provided that "the house of representatives shall be composed of members chosen every second year by the people of the several States; and the electors in each State shall have the qualifications requisite for *electors of the most numerous branch of the state legislature.*"

The Rebellion caused this rule to be abrogated. The reason may be sought in punishment, precaution, or passion. Whatever the cause, we are now brought to re-open a question involving the fundamental rights of the States and the fairest treatment of the blacks. I believe the North, South, East and West are prepared to discuss and decide this question in a spirit of pure and equal justice, and not upon the narrow plane of partisan politics. The negroes of the South have been clothed with suffrage. It is indeed hard and difficult to openly and squarely take this great prerogative of citizenship away from them. It was easy to confer the honor—it is hard to take it away—even conceding the abstract right to do so. The American people must show themselves capable of deciding the question with justice to all.

VI. The Solution of the Question.

By the decisions of the Supreme Court of the United States heretofore referred to, it is settled that the respective States may adopt nondiscriminating and uniform laws upon the question of suffrage.

Reason as best we can, there is no escape from the conclusion that the effect of this judicial-made law is to violate the spirit of the amendments to the Constitution, which meant to give the colored people over 21 years of age, as a class, the right to vote. The purpose of the constitutions of the different Southern States adopted since these amendments went into effect was to thwart the amendments and to deprive a large majority of the blacks of the power to vote. And thus there exists a clear issue between the amendments as they were intended and as they are administered. The people of the United States solemnly intended one thing, the courts, looking at mere words and the surface of things, have declared another. Such a condition is not calculated to inspire profound respect for our organic laws. Sophistry and fallacious pretence are invoked to overcome express constitutional mandates.

It seems to me it is both wise and necessary to get rid of this unhappy spectacle, which tends to weaken the confidence of the

people in the strength and integrity of constitutional law, and to return to old and perfectly natural conditions by again unqualifiedly placing this question of suffrage with the respective States, where it belongs. It is for them to decide who shall vote, and the general government shall have no voice in the matter.

The consequences resulting from this method of solution may not be as profound or as far reaching as many, at first blush, may think. It is true that it requires the repeal of the second section of the 14th and all of the 15th amendment to the Constitution of the United States. The effect of this repeal would be to relegate the whole question of suffrage to the respective States. They could deprive the whites or blacks, or any part thereof, of the right to vote. Let us examine to where this would lead. Nobody has suggested taking away suffrage from the negroes of the Northern, Eastern and Western sections of the country. The reasons are obvious, and have already been alluded to. It seems to me that this fact shows that the question may be treated as if it were not one of race at all. The vital question is, if a repeal of these amendments were made, would the Southern States precipitately rush into a wholesale and unjust exclusion of the blacks from suffrage? Why should they thus discriminate? Is not the question one of supreme and dominating interest?

Wholesale exclusion of the blacks might, and probably would, mean a hegira of that race from the South, the consequence of which would be ruinous to its agricultural and fast increasing commercial interests. The negro can never be deprived of citizenship, nor of his rights to equality before the law as long as the first section of the 14th amendment remains a law—and it may be assumed to be permanent.

Moreover, it is quite likely that the negro vote will eventually, if not soon, divide, and the blacks will be arrayed against each other at the polls. At the North their vote is eagerly sought for by both parties. Why, when the strong hand is removed, should it be otherwise in the South?

If the constitutions of the different Southern States were left as they are now (noticeably that of Virginia, where a fair system of uniformity has been provided), all the blacks, through processes of economy or education, would eventually be entitled to vote. The effect of this may be found in recent declarations of the blacks in the City of Richmond expressing entire contentment with their condition and hearty contentment with their former masters.

Is it fair to trust the Southern States with the regulation of this great question? I claim that it is. Primarily, it is their interest to treat the negro race justly and liberally—to open up to them the paths of education and progress. To do otherwise means positive loss to State development. If the negro is not treated well, he can shift his ground and go where he can enjoy a more perfect political liberty. But the question is not problematical. Past history and self-interest settle it in favor of the South. The negro is treated better there than he is in the North—he has more chance of advancement and enjoys more privileges and greater equality. I know of what I speak from the "learned spirit of human dealing."

If the second section of the 14th amendment and the whole of the 15th amendment were repealed, there would still be left for settlement the basis of representation in Congress. The Constitution originally provided (Art. I, Sec. 2, par. 3) that "representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers; which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, *three-fifths* of all other persons." This provision created the much discussed "three-fifths rule," by which the Southern States received a credit for their slaves in the apportionment of representatives,—although those slaves were regarded only as property—mere chattels—an inconsistency certainly, but one of those inconsistencies characteristic of Anglo-Saxon legislation, which, avoiding logic, looks only to results.

The second section of the 14th amendment abolished this three-fifths rule, and provided that when the right to vote is denied to any male inhabitant of a State over 21 years of age, the basis of representation shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens 21 years of age in such State. The repeal of this clause would therefore re-open the whole subject of representation.

It seems to me that the final settlement of this question ought not to engender prolific discussion or entail great difficulties. In its discussion the representatives of the Southern States should be admitted to as full a share, and to as considerate a hearing, as were their predecessors in the Convention which adopted the original rule.

It is the custom in these days to ridicule compromise. But compromise in some difficult situations means only the resultant wisdom that is obtained from the comparison of sincere though opposite views. It is grounded upon enlightenment and knowledge.

The basis of representation could be fixed by taking the actual number of inhabitants found in each State without regard to their color, age or race. This method is eminently fair to all sections. For instance, New York has always within her borders a large number of foreigners, and of women and children, who do not vote, yet they are counted in making up her representation; and there seems to me to be no good reason why other States should not be likewise credited with all persons within their respective borders, whether negro citizens or foreigners.

It is quite unnecessary to refer to the prolific discussion which was had previous to the adoption of the present Constitution, upon the then vexed point of the basis of representation. We have practically settled the question in favor of the rule based upon the number of inhabitants in each State.

Finally, there remains the social aspect, too frequently intermingled or confounded with the purely political phase of the subject. The social condition of a person, be he white or black, is necessarily arbitrary—dependent upon taste, education, refinement and sympathy. Over these absolute rights a government cannot exercise control; because they are not within the sphere of its purpose or powers. Social castes, distinctions or degrees, have been, are and always will be, invidiously drawn by individuals, and, in the private sphere of their lives, the law allows them to make their own selections—in a word, to choose their own company. There is a high and impregnable barrier separating the whites and blacks—which has been fully recognized by both races. So far as my observation goes, there has been no disposition on the part of either to break through these natural conditions. Now and then there is presented a spectacle of a white man paying a fair and merited homage to the talents, learning and wisdom of a negro, as President Roosevelt entertaining Booker Washington. Such episodes are sometimes made the occasion of an outcry and explosion of invectives by persons who see in such desultory incidents evidences of race equality and miscegenation. But these exceptional occurrences in nowise affect normal racial conditions—which are fundamental. Shame on any civilization which demands that we should shrink from recognizing great learning, accomplishments and refinement because they are possessed by a colored man.

I think it must be admitted that the negroes, in face of trying conditions, behave with good sense and great tact. I have found the black man generous, sympathetic in affliction and neighborly; at the same time superstitious, idle, and wantonly extravagant. His character seems to be adapted to the anomalous conditions in which he is placed. In the difficult role which destiny has forced him to fill, it seems to me that it is our duty, as I think it has been the sincere aim of the Southern people, to make his path through life as easy as possible. Apart from anything else, it is our clear interest to place in his hands the instruments of education so that he can advance by slow but steady paces into a real comprehension of the uses and ends of government and be competent to exercise the important prerogative of political suffrage with intelligence.

The famous Dred Scott decision is abrogated forever, and the negro has become for all time a citizen of the United States and of the State in which he resides.

He can roam at will over the whole area covered by the American flag, as free as a white man. In foreign lands he carries the proud title of American citizenship. That he voluntarily remains in the Southern States is a strong evidence of contentment. Churches and schools are fast multiplying there, and in due course the negroes will reach such a stage of political and educational development that their right to exercise full political rights will eventually mature.

This latter condition will produce discrimination; discrimination means the separation of the negro vote; and when that comes, the laws of nature and the precepts of Christianity will solve the problem.

John R. Dos Passos.