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Civil Rights
States Rights
and the
Reconstruction Background

by the late
Hon. Alfred H. Stone

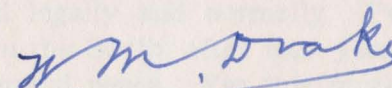
written in 1948

EXPLANATION

Sixteen years ago the late Honorable Alfred H. Stone, distinguished man of letters, man of affairs, and first Chairman of the Mississippi State Tax Commission, made a statement about Civil Rights and our Reconstruction Background that was widely published. It is as appropriate today as it was when written in 1948. A small part of it is reproduced to make this little book, which is sent to you with compliments of the undersigned.

This essay has value as history; it has style, swing and rhythm and a basis of scholarship and sincerity. It could well be used by teachers in our high schools and colleges as a model of English prose composition. But its greatest value lies in its candor and courage. Recently we have heard in connection with our schools words of submission and retreat. You will find no such weakness in the following pages.

Respectfully your fellow citizen,



W. M. Drake

4/25/65

Church Hill, Miss., February, 1965.

Part of
Civil Rights, States' Rights
and Reconstruction Background

by
(the late)

Hon. Alfred H. Stone
(1948)

TURNING BACK THE CLOCK

Eighty one years ago, on March 2, 1867, there was enacted in the City of Washington one of the greatest and most criminal legislative tragedies in the history of the English speaking world. The occasion was the passage over the President's veto of "An Act To Provide For the More Efficient Government of the Rebel States."

The Civil War had come to an end two years before. President Johnson had followed Lincoln's plan of Reconstruction, and civil governments had been established in each of the Southern states. They had held conventions, adopted constitutions, abolished slavery and elected legislatures which had functioned legally and normally. Peace had reigned for two years in the South, after four years of war, absolute and uninterrupted peace. Yet this mockery of statutory law began with the declaration of a lie, to wit: "Whereas, no legal State governments or adequate protection for life or property now exists in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas and Arkansas." These ten states were by this act divided into five military districts, each under the command of a general of the Army, not below the rank of brigadier general, with ample military personnel to enforce his orders.

(Mr. Stone next stated that he would reproduce the full text of the Military Reconstruction Bill and full text of President Andrew Johnson's veto message. These are long documents for which unfortunately there is not space here.) The depths of infamy were reached in the vicious provisions of this bill. The heights of legal learning, of the application of the combined wisdom and experience of constitutional history to a government of liberty under law, are exemplified in the President's veto message. This message was not from Andrew Johnson's pen. Johnson was a man of outstanding ability and superb courage, but he was not a man of scholarly attainments. But in the preparation of his veto message he was wise enough to secure the services of one of the greatest lawyers ever produced in America or England. This was Jeremiah S. Black. Judge Black had been chief justice of the Supreme Court of Pennsylvania when that Court was at its zenith. He was confidential adviser to Lincoln and Johnson. He was attorney general and then secretary of state under President Buchanan. He was a profound student of constitutional law and history. This veto message was not answered at the time. It has not been answered since. There was then and there is now no answer to it. It is the last word on the subject of which it treats.

The over-riding two-thirds vote by which this bill became a law was not taken in the House without the expression of some bitter comments in opposition. Charles A. Eldredge, of Wisconsin, declared that the proposed law would in the end mean "a dissolution of the Union and the overthrow and abolishment of our constitution of government." He said that the minority yielded only to the brute force of the majority and that "we can only, in the name of the Constitution, in the name of the Republic, in the name of all we hold dear on earth, earnestly, solemnly pro-

test against this action of this Congress." Eldredge agreed with Francis C. LeBlond, of Ohio, that if the minority had the authority under the rules they would resist "by every power that God has given us the consummation of this unholy design to destroy the Republic." Thaddeus Stevens, who came from the same state as the real author of Johnson's veto message, Judge Black of Pennsylvania, made a few acid comments "on this funeral of the nation," and then called on his friend, Blaine, none other than James G., to move that the bill in question become a law "the objections of the President to the contrary notwithstanding." The bill passed with an affirmative vote of 135, with 48 negative and nine not voting. This same action was, of course, taken by the Senate, and the states "lately in rebellion" passed under the yoke of a military despotism such as no similar group of English speaking people had ever before, or have since, been subjected to.

This act abolished all civil courts, except at the whim of the military commander. The writ of habeas corpus was suspended along with all civil tribunals, every process being subject to military execution and control. It disfranchised every white man who had taken part in the war on the Southern side, or given aid or comfort to the South. At the same time it enfranchised all the negroes by providing for a new constitution for each state to "be framed by a convention of delegates elected by the male citizens of said State, twenty-one years old and upward, of whatever race, color, or previous condition, who have been residents in said State for one year previous to the day of such election, except such as may be disfranchised for participation in the rebellion or for felony at common law."

This Reconstruction Act laid down certain conditions under which the "Rebel States" might be re-admitted to the Union and the military governments brought to a close.

These conditions included the framing of constitutions satisfactory to Congress, the election of "loyal" senators and representatives and the ratification of the proposed fourteenth amendment. The vindictive stupidity of this entire process of reconstruction is emphasized by the provision that no person excluded from the privilege of holding office under the fourteenth amendment could be a member of any of these Southern state conventions or even allowed to vote at the elections held for selecting delegates to such conventions. If you will read Section 3 of the Fourteenth Amendment, you will realize what this means. It meant the elimination from any participation in government, local, state or national, of every man who had held any position of honor or trust in any such governments prior to the war and had fought on or even sympathized with the Southern side in the Civil War. At the same time it delivered the white people of the South bodily to the political control of their former slaves. It was this vicious iniquity which gave rise to the expression common for a long time thereafter of placing black heels on white necks. To ask the Southern people to vote as these provisions required, as the price of re-admission to the Union, was like asking a virtuous mother to be a party to placing the stamp of bastardy upon her own offspring. All of this meant the elimination of the brains and character and substance of the South from all legal participation in the reconstructing process. And we say "legal participation" advisedly. The hands of these people could not be fettered by the letter of the written law, neither then nor now.

One of the ablest students of American history, Professor William A. Dunning of Columbia, in commenting on the events of this period, made the following statement: "Seven unwholesome years were required to demonstrate that not even the government which had quelled the great

est rebellion in history could maintain the freedmen in both security and comfort on the necks of their former masters. The demonstration was slow, but it was effective and permanent." It is said that Mr. Truman's father was a Confederate soldier. But Missouri did not secede and hence did not enjoy the distinction of being included in this Reconstruction Act. And we use the word distinction in its finest implications. We are wondering if he and his radical advisers have ever really learned anything about Southern history. And we wonder if he, as a Confederate soldier's son, knows the meaning and significance of one of the most expressive words in the English language—scalawag. Apparently he and his group are cherishing the delusion that they can accomplish, through political chicanery and manipulation, aided and abetted by a New Deal court, what the radicals of an earlier day could not. The reason why this military Reconstruction act failed to encompass the destruction of our form of government, as predicted by some of its opponents in Congress, was that the white people of the Southern states demonstrated to the world that it simply could not be done. And for this they are entitled to the eternal gratitude of America. And, it may be added, their descendants are prepared to give a similar demonstration today.

One of the simplest and most elementary of all psychological processes is that of the association of ideas. The younger generation of Southern people, as a rule, have no more technical knowledge of the details of the history of which we are writing than have the people of the same age in other sections of the country. But the very word "Reconstruction" has for the South and the Southern people a significance and a connotation which the word does not have anywhere else in the world. For the rest of the country it merely means a disgraceful period of American history,

which decent people would like to forget and which right-thinking people would like to expunge from the record. For any other part of America it is merely a word in the dictionary. For the South it is an ineradicable scar on the heart. To the South it means gall and bitterness. It brings up a condition which defies description. But the description should be attempted, nevertheless, and particularly for the benefit of those who are so ignorant and so blind as to attempt to re-enact any of its features. Of course, it will be immediately argued that the present Civil Rights proposals have not the same background as those of the Reconstruction period. As a matter of fact, they have. The chief end to be accomplished in the present case, as in the former, is that of political control for the particular group or party in power. It means nothing now, just as it meant nothing then, to the proponents of these measures that the people in whose alleged behalf they were proposed would inevitably become the chief sufferers from the experiment. That is as true today as it was in 1867 and in 1875. There is no instance in history in which any considerable group of English speaking people has ever been successfully compelled to submit to the imposition upon them, of any action, purpose, custom or law which ran counter to their own beliefs, convictions and will. The mainspring of the success of the British Empire as a political entity has been the fact that, after the example of the American revolution, no British party in power has ever attempted to enforce hostile laws or ideas or ideologies upon British subjects anywhere in the empire. Those of us who through the years have been interested in such things will recall that during their war with England the South African Boer leaders let it be known that they would fight to the last man rather than make any peace which involved a surrender of their local political control of their local political affairs. The final

treaty between England and the South African states contained a provision that the question of native suffrage was not to be even considered until after complete autonomy had been granted the former Boer states.

This matter of the folly of attempting to effectuate political action through coercive means, in defiance of public sentiment, is too simple in its fundamental aspects and too definite in its operations and results to admit of serious question or controversy. American history is full of illustrative examples of this proposition. In addition to the history of Reconstruction itself, an outstanding illustration is that of the Eighteenth Amendment to the Federal Constitution. For fourteen years this article was part of the Constitution of the United States. It was upheld and supported and its enforcement undertaken by the combined power of the Army and Navy, the Coast Guard Service, the Internal Revenue Service and every other branch of the government, directly or indirectly concerned, including both state and Federal courts. It was finally repealed as wholly impossible of enforcement, because of lack of supporting public sentiment.

Yet the opposition to the Eighteenth Amendment was grounded only in instinctive resentment over interference with individual rights and privileges. The ground of opposition was insignificant when compared with the depth and intensity of the resentment which people feel over the invasion of the rights which they hold to be inalienable badges and evidence of the rights of the states to local control of their local affairs.

In support of the soundness of this line of thought, we have a number of times during recent years had occasion to quote from a statement made by President Coolidge, at the College of William and Mary, Williamsburg, Virginia, on

May 16, 1926. It is as unanswerable today as it was when made:

“No method of procedure has ever been devised by which liberty could be divorced from local self-government. No plan of centralization has ever been adopted which did not result in bureaucracy, tyranny, inflexibility, reaction and decline. While we ought to glory in the Union and remember that it is the source from which the states derive their chief title to fame, we must also recognize that the national administration is not and cannot be adjusted to the needs of local government. It is too far away to be informed of local needs, too inaccessible to be responsive to local conditions. The states should not be induced by coercion or by favor to surrender the management of their own affairs.”

