

Source: DOCUMENTS of AMERICAN HISTORY, eighth edition, edited by Henry Steele Commager, Appleton-Century-Crofts, Division of Meredith Corporation, New York, COPYRIGHT © 1968 BY MEREDITH CORPORATION

260. THE FIRST RECONSTRUCTION ACT

March 2, 1867

(*U. S. Statutes at Large*, Vol. XIV, p. 428 ff.)

The triumph of the Radicals in the elections of 1866 gave them a free hand in the development of a reconstruction policy. The famous Act of March 2, 1867, contained the general principles of congressional reconstruction. There was grave doubt about the constitutionality of some of the provisions of this act, but the efforts of Southern States to bring the question before the Supreme Court were unavailing. For the argument against the constitutionality of the measure, see Johnson's veto message, Document No. 261. On the history of the Act, see J. F. Rhodes, *History of the United States*, Vol. VI; J. W. Burgess, *Reconstruction and the Constitution*; W. L. Fleming, *The Sequel of Appomattox*, chs. v-vi; C. E. Chadsey, *The Struggle Between President Johnson and Congress over Reconstruction*; J. A. Woodburn, *Thaddeus Stevens*, chs. xiii-xviii; G. F. Milton, *The Age of Hate*, ch. xvii; B. B. Kendrick, *The Journal of the Joint Committee of Fifteen*. For the political background, H. K. Beale, *The Critical Year*, is invaluable. For military government, see W. A. Dunning, *Essays on the Civil War and Reconstruction*, chs. iii-iv; and the numerous monographs on reconstruction in the States; see bibliographies in W. A. Dunning, *Reconstruction*, and in H. K. Beale, *Critical Year*.

An Act to provide for the more efficient Government of the Rebel States

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; and whereas it is necessary that peace and good order should be enforced in said States until loyal and republican State governments can be legally established: Therefore,

Be it enacted, That said rebel States shall be divided into military districts and made subject to the military authority of the United States as hereinafter prescribed, and for that purpose Virginia shall constitute the first district; North Carolina and South Carolina the second district; Georgia, Alabama, and Florida the third district; Mississippi and Arkansas the fourth district; and Louisiana and Texas the fifth district.

SEC. 2. That it shall be the duty of the President to assign to the command of each of said districts an officer of the army, not below the rank of brigadier-general,

and to detail a sufficient military force to enable such officer to perform his duties and enforce his authority within the district to which he is assigned.

SEC. 3. That it shall be the duty of each officer assigned as aforesaid, to protect all persons in their rights of persons and property, to suppress insurrection, disorder, and violence, and to punish, or cause to be punished, all disturbers of the public peace and criminals; and to this end he may allow local civil tribunals to take jurisdiction of and to try offenders, or, when in his judgment it may be necessary for the trial of offenders, he shall have power to organize military commissions or tribunals for that purpose, and all interference under color of State authority with the exercise of military authority under this act, shall be null and void.

SEC. 4. That all persons put under military arrest by virtue of this act shall be tried without unnecessary delay, and no cruel or unusual punishment shall be inflicted, and no sentence of any military commission or tribunal hereby authorized, affecting the life or liberty of any person, shall be executed until it is approved by the officer in command of the district, and the laws and regulations for the government of the army shall not be affected by this act, except in so far as they conflict with its provisions: *Provided*, That no sentence of death under the provisions of this act shall be carried into effect without the approval of the President.

SEC. 5. That when the people of any one of said rebel States shall have formed a constitution of government in conformity with the Constitution of the United States in all respects, 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 resident 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, and when such constitution shall provide that the elective franchise shall be enjoyed by all such persons as have the qualifications herein stated for electors of delegates, and when such constitution shall be ratified by a majority of the persons voting on the question of ratification who are qualified as electors for delegates, and when such constitution shall have been submitted to Congress for examination and approval, and Congress shall have approved the same, and when said State, by a vote of its legislature elected under said constitution, shall have adopted the amendment to the Constitution of the United States, proposed by the Thirty-ninth Congress, and known as article fourteen, and when said article shall have become a part of the Constitution of the United States said State shall be declared entitled to representation in Congress, and senators and representatives shall be admitted therefrom on their taking the oath prescribed by law, and then and thereafter the preceding sections of this act shall be inoperative in said State: *Provided*, That no person excluded from the privilege of holding office by said proposed amendment to the Constitution of the United States, shall be eligible to election as a member of the convention to frame a constitution for any of said rebel States, nor shall any such person vote for members of such convention.

SEC. 6. That, until the people of said rebel States shall be by law admitted to representation in the Congress of the United States, any civil governments which may exist therein shall be deemed provisional only, and in all respects subject to the paramount authority of the United States at any time to abolish, modify, control, or supersede the same; and in all elections to any office under such provisional governments all persons shall be entitled to vote, and none others, who are entitled to vote, under the provisions of the fifth section of this act; and no persons shall be eligible to any office under any such provisional governments who would be disqualified from holding office under the provisions of the third *article* of said constitutional amendment.