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234. THE WADE-DAVIS BILL

July 8, 1864

(Richardson, ed. *Messages and Papers*, Vol. VI, p. 223 ff.)

Congressional hostility to the Presidential plan of reconstruction, outlined in the message of December 8, 1863, grew increasingly emphatic during the following year and culminated in the passage by a close vote of the Wade-Davis bill. This bill embodied the Congressional plan of reconstruction. Lincoln did not sign the bill, and after the adjournment of Congress, issued a proclamation giving his reasons for refusing to accept the Congressional plan. See, J. G. Nicolay and J. Hay, *Abraham Lincoln*, Vol. IX, ch. v; C. H. McCarthy, *Lincoln's Plan of Reconstruction*; B. C. Steiner, *Life of Henry Winter Davis*; A. G. Riddle, *Life of Benjamin F. Wade*.

An Act to guarantee to certain States whose Governments have been usurped or overthrown a Republican Form of Government.

Be it enacted, That in the states declared in rebellion against the United States, the President shall, by and with the advice and consent of the Senate, appoint for each a provisional governor, . . . who shall be charged with the civil administration of such state until a state government therein shall be recognized as hereinafter provided.

SEC. 2. That so soon as the military resistance to the United States shall have been suppressed in any such state, and the people thereof shall have sufficiently returned to their obedience to the constitution and the laws of the United States, the provisional governor shall direct the marshal of the United States, as speedily as may be, to name a sufficient number of deputies, and to enroll all white male citizens of the United States, resident in the state in their respective counties, and to request each one to take the oath to support the constitution of the United States, and in his enrolment to designate those who take and those who refuse to take that oath, which rolls shall be forthwith returned to the provisional governor; and if the persons taking that oath shall amount to a majority of the persons enrolled in the state, he shall, by proclamation, invite the loyal people of the state to elect delegates to a convention charged to declare the will of the people of the state relative to the reestablishment of a state government subject to, and in conformity with, the constitution of the United States.

SEC. 3. That the convention shall consist of as many members as both houses of the last constitutional state legislature, apportioned by the provisional governor among the counties, parishes, or districts of the state, in proportion to the white

population, returned as electors, by the marshal, in compliance with the provisions of this act. The provisional governor shall, . . . provide an adequate force to keep the peace during the election.

SEC. 4. That the delegates shall be elected by the loyal white male citizens of the United States of the age of twenty-one years, and resident at the time in the county, parish, or district in which they shall offer to vote, and enrolled as aforesaid, or absent in the military service of the United States, and who shall take and subscribe the oath of allegiance to the United States in the form contained in the act of July 2, 1862; and all such citizens of the United States who are in the military service of the United States shall vote at the headquarters of their respective commands, under such regulations as may be prescribed by the provisional governor for the taking and return of their votes; but no person who has held or exercised any office, civil or military, state or confederate, under the rebel usurpation, or who has voluntarily borne arms against the United States, shall vote, or be eligible to be elected as delegate, at such election.

SEC. 5. That the said commissioners, . . . shall hold the election in conformity with this act and, . . . shall proceed in the manner used in the state prior to the rebellion. The oath of allegiance shall be taken and subscribed on the poll-book by every voter in the form above prescribed, but every person known by, or proved to, the commissioners to have held or exercised any office, civil or military, state or confederate, under the rebel usurpation, or to have voluntarily borne arms against the United States, shall be excluded, though he offer to take the oath; and in case any person who shall have borne arms against the United States shall offer to vote he shall be deemed to have borne arms voluntarily unless he shall prove the contrary by the testimony of a qualified voter. . . .

SEC. 6. That the provisional governor shall, by proclamation, convene the delegates elected as aforesaid, at the capital of the state, on a day not more than three months after the election, giving at least thirty days' notice of such day. In case the said capital shall in his judgment be unfit, he shall in his proclamation appoint another place. He shall preside over the deliberations of the convention, and administer to each delegate, before taking his seat in the convention, the oath of allegiance to the United States in the form above prescribed.

SEC. 7. That the convention shall declare, on behalf of the people of the state, their submission to the constitution and laws of the United States, and shall adopt the following provisions, hereby prescribed by the United States in the execution of the constitutional duty to guarantee a republican form of government to every state, and incorporate them in the constitution of the state, that is to say:

First. No person who has held or exercised any office, civil or military, except offices merely ministerial, and military offices below the grade of colonel, state or con-

federate, under the usurping power, shall vote for or be a member of the legislature, or governor.

Second. Involuntary servitude is forever prohibited, and the freedom of all persons is guaranteed in said state.

Third. No debt, state or confederate, created by or under the sanction of the usurping power, shall be recognized or paid by the state.

SEC. 8. That when the convention shall have adopted those provisions, it shall proceed to reestablish a republican form of government, and ordain a constitution containing those provisions, which, when adopted, the convention shall by ordinance provide for submitting to the people of the state, entitled to vote under this law, at an election to be held in the manner prescribed by the act for the election of delegates; but at a time and place named by the convention, at which election the said electors, and none others, shall vote directly for or against such constitution and form of state government, and the returns of said election shall be made to the provisional governor, who shall canvass the same in the presence of the electors, and if a majority of the votes cast shall be for the constitution and form of government, he shall certify the same, with a copy thereof, to the President of the United States, who, after obtaining the assent of congress, shall, by proclamation, recognize the government so established, and none other, as the constitutional government of the state, and from the date of such recognition, and not before, Senators and Representatives, and electors for President and Vice-President may be elected in such state, according to the laws of the state and of the United States.

SEC. 9. That if the convention shall refuse to reestablish the state government on the conditions aforesaid, the provisional governor shall declare it dissolved; but it shall be the duty of the President, whenever he shall have reason to believe that a sufficient number of the people of the state entitled to vote under this act, in number not less than a majority of those enrolled, as aforesaid, are willing to reestablish a state government on the conditions aforesaid, to direct the provisional governor to order another election of delegates to a convention for the purpose. . . .

SEC. 10. That, until the United States shall have recognized a republican form of state government, the provisional governor in each of said states shall see that this act, and the laws of the United States, and the laws of the state in force when the state government was overthrown by the rebellion, are faithfully executed within the state; but no law or usage whereby any person was heretofore held in involuntary servitude shall be recognized or enforced by any court or officer in such state, and the laws for the trial and punishment of white persons shall extend to all persons, and jurors shall have the qualifications of voters under this law for delegates to the convention. . . .

SEC. 11. That until the recognition of a state government as aforesaid, the provisional governor shall, under such regulations as he may prescribe, cause to be assessed, levied, and collected, for the year eighteen hundred and sixty-four, and every year thereafter, the taxes provided by the laws of such state to be levied during the fiscal year preceding the overthrow of the state government thereof, in the manner prescribed by the laws of the state, as nearly as may be; . . . The proceeds of such taxes shall be accounted for to the provisional governor, and be by him applied to the expenses of the administration of the laws in such state, subject to the direction of the President, and the surplus shall be deposited in the treasury of the United States to the credit of such state, to be paid to the state upon an appropriation therefor, to be made when a republican form of government shall be recognized therein by the United States.

SEC. 12. That all persons held to involuntary servitude or labor in the states aforesaid are hereby emancipated and discharged therefrom, and they and their posterity shall be forever free. And if any such persons or their posterity shall be restrained of liberty, under pretence of any claim to such service or labor, the courts of the United States shall, on habeas corpus, discharge them.

SEC. 13. That if any person declared free by this act, or any law of the United States, or any proclamation of the President, be restrained of liberty, with intent to be held in or reduced to involuntary servitude or labor, the person convicted before a court of competent jurisdiction of such act shall be punished by fine of not less than fifteen hundred dollars, and be imprisoned not less than five nor more than twenty years.

SEC. 14. That every person who shall hereafter hold or exercise any office, civil or military, except offices merely ministerial, and military offices below the grade of colonel, in the rebel service, state or confederate, is hereby declared not to be a citizen of the United States.