

CHARLES SUMNER'S "STATE SUICIDE"
THEORY

The Effect of Secession is the Destruction of the State

Congressional Globe, February 11, 1862, p. 736. [1862]

1. *Resolved*, That any vote of secession or other act by which any State may undertake to put an end to the supremacy of the Constitution within its territory is inoperative and void against the Constitution, and when sustained by force it becomes a practical *abdication* by the State of all rights under the Constitution, while the treason which it involves still further works an instant *forfeiture* of all those functions and powers essential to the continued existence of the State as a body politic, so that from that time forward the territory falls under the exclusive jurisdiction of Congress as other territory, and the state being according to the language of the law, *felo-de-se*, ceases to exist.

2. *Resolved*, That any combination of men assuming to act in the place of such States, and attempting to insnare or coerce the inhabitants thereof into a confederation hostile to the Union is rebellious, treasonable, and destitute of all moral authority; and that such combination is a usurpation, incapable of any constitutional existence, and utterly lawless, so that everything dependent upon it is without constitutional or legal support.

3. *Resolved*, That the termination of a State under the Constitution necessarily causes the termination of those peculiar local institutions which, having no origin in the Constitution or in those natural rights which exist independent of the Constitution are upheld by the sole and exclusive authority of the State.

4. *Resolved*, That slavery being a peculiar local institution, derived from local laws, without any origin in the Constitution or in natural rights, is upheld by the sole and exclusive authority of the State, and must therefore cease to exist legally or constitutionally when the State on which it depends no longer exists; for the incident cannot survive the principal.

5. *Resolved*, That in the exercise of its exclusive jurisdiction over the territory once occupied by the States, it is the duty of Congress to see that the supremacy of the Constitution is maintained in its essential principles, so that everywhere in this extensive territory slavery shall cease to exist practically, as it has already ceased to exist constitutionally or legally. . .

9. *Resolved*, That the duty directly cast upon Congress by the extinction of the States is reinforced by the positive prohibition of the Constitution that "no State shall enter into any confederation," or "without the consent of Congress keep troops or ships-of-war in time of peace or enter into any agreement or compact with another State," or "grant letters of marque and reprisal," or "without the consent of Congress lay any duties on imports or exports," all of which have been done by these pretended governments, and also by the positive injunction of the Constitution, addressed to the nation, that "the United States shall guaranty to every State in this Union a republican form of government;" and that in pursuance of this duty cast upon Congress, and further enjoined by the Constitution, Congress will assume complete jurisdiction of such vacated territory where such unconstitutional and illegal things have been attempted, and will

proceed to establish therein republican forms of government under the Constitution; and in the execution of this trust will provide carefully for the protection of all the inhabitants thereof, for the security of families, the organization of labor, the encouragement of industry, and the welfare of society, and will in every way discharge the duties of a just, merciful, and paternal government.

THE CONQUERED PROVINCE THEORY OF THADDEUS STEVENS

The Conquered Provinces

Congressional Globe. December 18, 1865, p. 72. [1865]

The President assumes, what no one doubts, that the late rebel States have lost their constitutional relations to the Union, and are incapable of representation in Congress, except by permission of the Government. It matters but little, with this admission, whether you call them States out of the Union, and now conquered territories, or assert that because the Constitution forbids them to do what they did do, that they are therefore only dead as to all national and political action, and will remain so until the Government shall breathe into them the breath of life anew and permit them to occupy their former position. In other words, that they are not out of the Union, but are only dead carcasses lying within the Union. In either case, it is very plain that it requires the action of Congress to enable them to form a State government and send representatives to Congress. Nobody, I believe, pretends that with their old constitutions and frames of government they can be permitted to claim their old rights under the Constitution. They have torn their constitutional States into atoms, and built on their foundations fabrics of a totally different character. Dead men cannot raise themselves. Dead States cannot restore their existence "as it was." Whose especial duty is it to do it? In whom does the Constitution place the power? Not in the judicial branch of Government, for it only adjudicates and does not prescribe laws. Not in the Executive, for he only executes and cannot make laws. Not in the Commander-in-Chief of the armies, for he can only hold them under military rule until the sovereign legislative power of the conqueror shall give them law. Unless the law of nations is a dead letter, the late war between two acknowledged belligerents severed their original compacts and broke all the ties that bound them together. The future condition of the conquered power depends on the will of the conqueror. They must come in as new states or remain as conquered provinces. Congress . . . is the only power that can act in the matter.

Congress alone can do it. . . Congress must create States and declare when they are entitled to be represented. Then each House must judge whether the members presenting themselves from a recognized State possess the requisite qualifications of age, residence, and citizenship; and whether the election and returns are according to law. . .

It is obvious from all this that the first duty of Congress is to pass a law declaring the condition of these outside or defunct States, and providing proper civil governments for them. Since the conquest they have been governed by martial law. Military rule is necessarily despotic, and

ought not to exist longer than is absolutely necessary. As there are no symptoms that the people of these provinces will be prepared to participate in constitutional government for some years, I know of no arrangement so proper for them as territorial governments. There they can learn the principles of freedom and eat the fruit of foul rebellion. Under such governments, while electing members to the territorial Legislatures, they will necessarily mingle with those to whom Congress shall extend the right of suffrage. In Territories Congress fixes the qualifications of electors; and I know of no better place nor better occasion for the conquered rebels and the conqueror to practice justice to all men, and accustom themselves to make and obey equal laws...

They ought never to be recognized as capable of acting in the Union, or of being counted as valid States, until the Constitution shall have been so amended as to make it what its framers intended; and so as to secure perpetual ascendancy to the party of the Union; and so as to render our republican Government firm and stable forever. The first of those amendments is to change the basis of representation among the States from Federal numbers to actual voters. . . With the basis unchanged the 83 Southern members, with the Democrats that will in the best times be elected from the North, will always give a majority in Congress and in the Electoral college. . . I need not depict the ruin that would follow...

But this is not all that we ought to do before inveterate rebels are invited to participate in our legislation. We have turned, or are about to turn, loose four million slaves without a hut to shelter them or a cent in their pockets. The infernal laws of slavery have prevented them from acquiring an education, understanding the common laws of contract, or of managing the ordinary business of life. This Congress is bound to provide for them until they can take care of themselves. If we do not furnish them with homesteads, and hedge them around with protective laws; if we leave them to the legislation of their late masters, we had better have left them in bondage. . . If we fail in this great duty now, when we have the power, we shall deserve and receive the execration of history and of all future ages.