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EQUAL SUFFRAGE.

ADDRESS

FROM THE

COLORED CITIZENS OF NORFOLK, VA.,

TO THE

PEOPLE OF THE UNITED STATES.

ALSO AN

ACCOUNT OF THE AGITATION

AMONG THE

COLORED PEOPLE OF VIRGINIA FOR EQUAL RIGHTS.

WITH AN APPENDIX CONCERNING

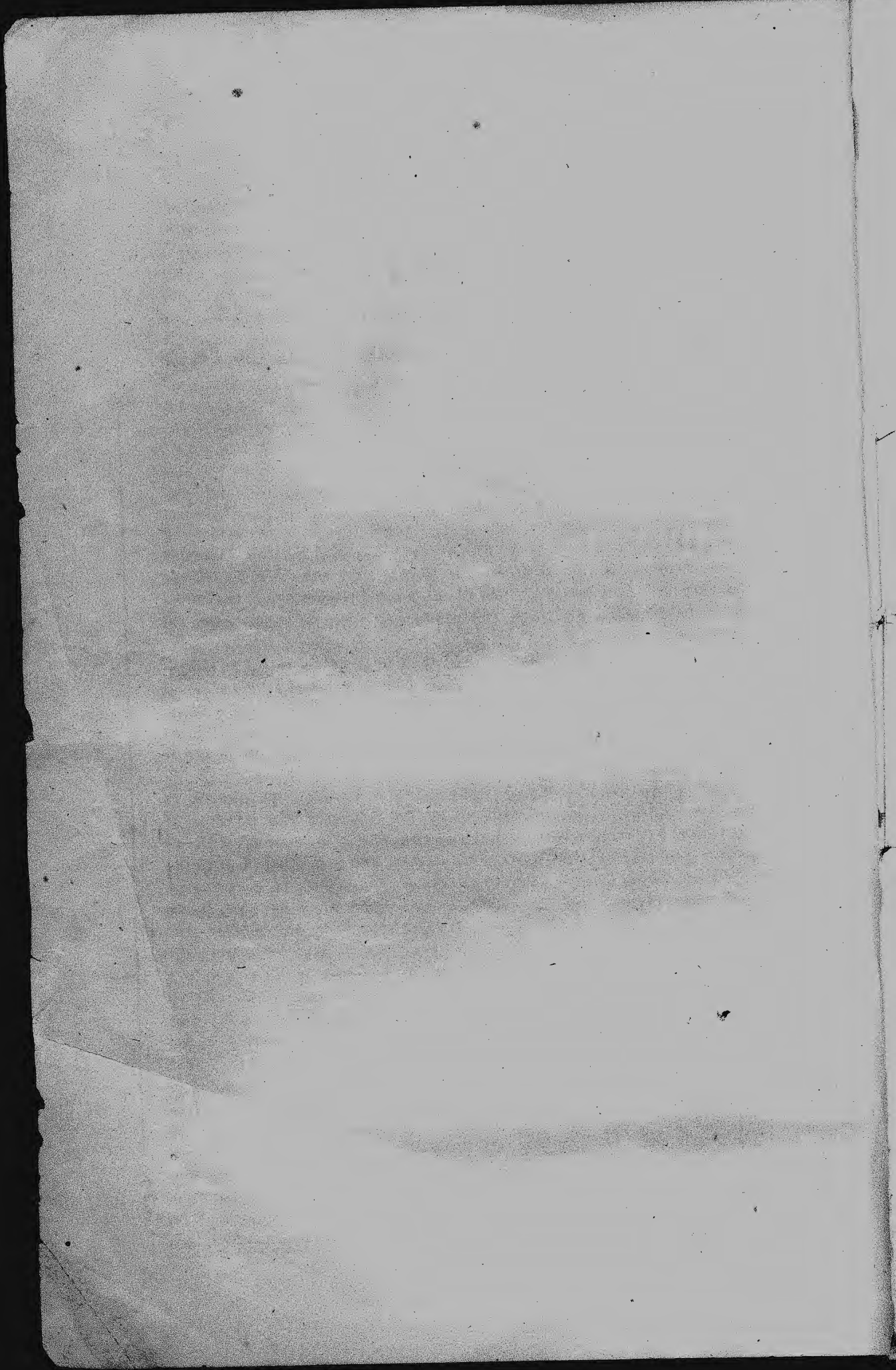
THE RIGHTS OF COLORED WITNESSES BEFORE
THE STATE COURTS.

New Bedford, Mass.:

E. ANTHONY & SONS, PRINTERS,

1865.

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ADDRESS

From the Colored Citizens of Norfolk, Va., to the People
of the United States.

Fellow Citizens :

The undersigned have been appointed a committee, by a public meeting of the colored citizens of Norfolk, held June 5th, 1865, in the Catharine Street Baptist Church, Norfolk, Va., to lay before you a few considerations touching the present position of the colored population of the southern States generally, and with reference to their claim for equal suffrage in particular.

We do not come before the people of the United States asking an impossibility ; we simply ask that a Christian and enlightened people shall, at once, concede to us the full enjoyment of those privileges of full citizenship, which, not only, are our undoubted right, but are indispensable to that elevation and prosperity of our people, which must be the desire of every patriot.

The legal recognition of these rights of the free colored population, in the past, by State legislation, or even by the Judiciary and Congress of the United States, was, as a matter of course, wholly inconsistent with the existence of slavery ; but now, that slavery has been crushed, with the rebellion, sprung from it, on what pretext can disabilities be perpetuated that were imposed only to protect an institution which has now, thank God, passed away forever ? It is a common assertion, by our enemies, that "this is a white man's country, settled by white men, its government established by white men, and shall therefore be ruled by white men only." How far are these statements true and the conclusion reasonable ? Every school-boy knows that within twelve years of the foundation of the first settlement at Jamestown, our fathers as well as yours were toiling in the plantations on James River, for the sustenance and prosperity of the infant colony. Since then in New England, New York and the middle Atlantic States, our race has borne its part in the development of even the free North, while throughout the sunny South, the millions upon millions of acres, in its countless plantations, laden with precious crops, bear witness to the unrequited industry of our people. Even our enemies and old oppressors, themselves, used to admit, nay, contend for, the urgent necessity of our presence and labor to the national prosperity, for whenever slavery was to be defended, they were always ready to prove that the negro must

be the laborer in the South, because a white man's constitution could not withstand the climate.

Again, is it true that this government owes its existence entirely to white men? Why, the first blood shed in the Revolutionary war was that of a colored man, Crispus Attucks, while in every engraving of Washington's famous passage of the Delaware, is to be seen, as a prominent feature, the woolly head and dusky face of a colored soldier, Prince Whipple; and let the history of those days tell of the numerous but abortive efforts made by a vindictive enemy to incite insurrection among the colored people of the country, and how faithfully they adhered to that country's cause. Who has forgotten Andrew Jackson's famous appeal to the colored "citizens" of Louisiana, and their enthusiastic response, in defence of liberty, for others, which was denied themselves? Then did the peaceful stability of the government of the United States, during the (to all but the colored race) happy years, that preceded the late rebellion, owe nothing for its continuance to the colored people? Fellow citizens, was not the maintenance of that peace and order, and thereby of your prosperity, wholly owing to the submissive patience with which our race endured the galling slavery of which they were the victims, in the faith and assurance that God would yet work out their deliverance? Then what has been the behavior of our people during the past struggle? have we in any way embarrassed the government by unnecessary outbreaks on the one hand, or thwarted it by remissness or slackness in response to its calls for volunteers on the other? Let the fact that, in the short space of nine months, from what was called the contraband camp, at Hampton, near Fortress Monroe, and from other parts of this State alone, over *twenty-five thousand* colored men have become soldiers in the army of the United States, attest our devotion to our country. Over 200,000 colored men have taken up arms on behalf of the Union, and at Port Hudson, Olustee, Milliken's Bend, Fort Wagner, and in the death-haunted craters of the Petersburg mine, and on a hundred well fought fields, have fully proved their patriotism and possession of all the manly qualities that adorn the soldier.

Such, as every one knows, have been the relations and attitude of the colored people to the nation in the past, but we believe our present position is by no means so well understood among the loyal masses of the country, otherwise there would be no delay in granting us the express relief which the nature of the case demands. It must not be forgotten that it is the general assumption, in the South, that the effects of the immortal Emancipation Proclamation of President Lincoln go no further than the emancipation of the negroes then in slavery, and that it is only constructively even, that that Proclamation can be said, in any legal sense, to have abolished slavery, and even the late constitutional amendment, if duly ratified, can go no further; neither touch, nor can touch, the slave codes of the various southern States, and the laws respecting free people of color consequent therefrom, which, having been passed before the act of secession, are presumed to have lost none of their vitality, but exist, as a convenient engine for our oppression, until repealed by special acts of the State legislatures. By these laws, in many of the southern States, it

is still a crime for colored men to learn or be taught to read, and their children are doomed to ignorance; there is no provision for insuring the legality of our marriages; we have no right to hold real estate; the public streets and the exercise of our ordinary occupations are forbidden us unless we can produce passes from our employers, or licenses from certain officials; in some States the whole free negro population is legally liable to exile from the place of its birth, for no crime but that of color; we have no means of legally making or enforcing contracts of any description; we have no right to testify before the courts in any case in which a white man is one of the parties to the suit*; we are taxed without representation, and, in short, so far as legal safeguards of our rights are concerned, we are defenceless before our enemies. While this is our position as regards our legal status, before the State laws, we are still more unfortunately situated as regards our late masters. The people of the North, owing to the greater interest excited by the war, have heard little or nothing, for the past four years, of the blasphemous and horrible theories formerly propounded for the defence and glorification of human slavery, in the press, the pulpit and legislatures of the southern States; but, though they may have forgotten them, let them be assured that these doctrines have by no means faded from the minds of the people of the South; they cling to these delusions still, and only hug them the closer for their recent defeat. Worse than all, they have returned to their homes, with all their old pride and contempt for the negro transformed into bitter hate for the new-made freeman, who aspires to the exercise of his new-found rights, and who has been fighting for the suppression of their rebellion. That this charge is not unfounded, the manner in which it has been recently attempted to enforce the laws above referred to proves. In Richmond, during the three days' sway of the rebel Mayor Mayo, over 800 colored people were arrested, simply for walking the streets without a pass; in the neighboring city of Portsmouth, a Mayor has just been elected, on the avowed platform that this is a white man's government, and our enemies have been heard to boast openly, that soon not a colored man shall be left in the city; in the greater number of counties in this State, county meetings have been held, at which resolutions have been adopted *deploring*, while accepting, the abolition of slavery, but going on to pledge the planters composing the meeting, to employ no negroes save such as were formerly owned by themselves, without a written recommendation from their late employers, and threatening violence towards those who should do so, thereby keeping us in a state of serfdom, and preventing our free selection of our employers; they have also pledged themselves, in no event, to pay their late adult slaves more than \$60 per year for their labor, in the future, out of which, with characteristic generosity, they have decided that we are to find clothes for ourselves and families, and pay our taxes and doctors' bills; in many of the more remote districts individual planters are to be found who still refuse to recognize their negroes as free, forcibly retaining the wives and children of their late escaped slaves; cases have occurred, not far from Richmond itself, in which an attempt to leave the plantation has

*See Appendix, B.

been punished by shooting to death; and finally, there are numbers of cases, known to ourselves, in the immediate vicinity of this city, in which a faithful performance, by colored men, of the duties or labor contracted for, has been met by a contemptuous and violent refusal of the stipulated compensation. These are facts, and yet the men doing these things are, in many cases, loud in their professions of attachment to the restored Union, while committing these outrages on the most faithful friends that Union can ever have. Even well known Union men have often been found among our oppressors; witness the action of the Tennessee legislature in imposing unheard of disabilities upon us, taking away from us, and giving to the County Courts, the right of disposing of our children, by apprenticing them to such occupations as the court, not their parents, may see fit to adopt for them; and in this very city, and under the protection of military law, some of our white friends who have nobly distinguished themselves by their efforts in our behalf, have been threatened with arrest by a Union Mayor of this city, for their advocacy of the cause of freedom.

Fellow citizens, the performance of a simple act of justice on your part will reverse all this; we ask for no expensive aid from military forces, stationed throughout the South, overbearing State action, and rendering our government republican only in name; give us the suffrage, and you may rely upon us to secure justice for ourselves, and all Union men, and to keep the State forever in the Union.

While we urge you to this act of simple justice to ourselves, there are many reasons why you should concede us this right in your own interest. It cannot be that you contemplate with satisfaction a prolonged military occupation of the southern States, and yet, without the existence of a larger loyal constituency than, at present, exists in these States, a military occupation will be absolutely necessary, to protect the white Union men of the South, as well as ourselves, and if not absolutely to keep the States in the Union, it will be necessary to prevent treasonable legislation. Even as we write, the news comes that, acting under the advice of Governor Pierpont, the legislature of this State has restored to thousands of white voters, who were but recently in arms against the national authority, the right of franchise of which they were deprived, for their crime of treason, by the constitution under which that legislature sits, and it is now proposed to call a convention for the repeal of those sections of the new constitution, forbidding the assumption of any portion of the rebel State debt, and at the municipal election which took place in Norfolk on the 24th inst., a Mayor and Council supposed to favor the payment of more than \$100,000 of bonds issued by the City Council during the rebel occupation, for the payment of the expenses of rebel enlistment and the support of the families of rebel soldiers, was elected by a large majority over a loyal ticket opposed to such assumption of rebel debt. Ask yourselves if it is reasonable to expect that senators and representatives from southern constituencies, lately in unanimous rebellion, will be willing to vote taxes required to pay the interest on the debt incurred in crushing that rebellion.

You have not unreasonably complained of the operation of that clause

of the Constitution which has hitherto permitted the slavocracy of the South to wield the political influence which would be represented by a white population equal to three fifths of the whole negro population ; but slavery is now abolished, and henceforth the representation will be in proportion to the enumeration of the whole population of the South, *including people of color*, and it is worth your consideration if it is desirable or politic that the fomenters of this rebellion against the Union, which has been crushed at the expense of so much blood and treasure, should find themselves, after defeat, more powerful than ever, their political influence enhanced by the additional voting power of the other two fifths of the colored population, by which means four Southern votes will balance in the Congressional and Presidential elections at least seven Northern ones. The honor of your country should be dear to you, as it is, but is that honor advanced, in the eyes of the Christian world, when America alone, of all Christian nations, sustains an unjust distinction against four millions and a half of her most loyal people, on the senseless ground of a difference in color ? You are anxious that the attention of every man, of every State legislature, and of Congress, should be exclusively directed to redressing the injuries sustained by the country in the late contest ; are these objects more likely to be effected amid the political distractions of an embarrassing negro agitation ? You are, above all, desirous that no future intestine wars should mar the prosperity and destroy the happiness of the country ; will your perfect security from such evils be promoted by the existence of a colored population of four millions and a half, placed, by your enactments, outside the pale of the Constitution, discontented by oppression, with an army of 200,000 colored soldiers, whom you have drilled, disciplined, and armed, but whose attachment to the State you have failed to secure by refusing them citizenship ? You are further anxious that your government should be an example to the world of true Republican institutions ; but how can you avoid the charge of inconsistency if you leave one eighth of the population of the whole country without any political rights, while bestowing these rights on every immigrant who comes to these shores, perhaps from a despotism, under which he could never exercise the least political right, and had no means of forming any conception of their proper use ?

We have now shown you, to the best of our ability, the necessity of the recognition of the right of suffrage for our own protection, and have suggested a few of the reasons why it is expedient you should grant us that right ; but while we stand before you, pleading with you, for our fellows, on the grounds of humanity and political expediency, we would not have you forget that our case also stands on the basis of constitutional right. No sane person will for a moment contend that color or birth are recognized by the Constitution of the United States as any bar to the acquisition or enjoyment of citizenship. Further, the Congress of the Confederation expressly refused in June, 1778, to permit the insertion of the word "white" in the fourth article of Confederation, guaranteeing to the "free inhabitants" of each State, the privileges and immunities of citizens, in all the States. Free people of color were recognized voters in every State but South Carolina, at the time of the formation of the Constitution of the Uni-

ted States, and therefore clearly formed part of the "people" of the United States, who in the language of the preamble to the Constitution "ordained and established" that Constitution. It follows, then, that they are entitled to a full participation in all the benefits that Constitution was ordained to confer, and, among others, to that inestimable blessing of "a republican form of government," guaranteed to the people of each State, by Sec. 4th, Art. IV of the Constitution. Further, from time immemorial, before the Constitution was established, and, since its establishment, in accordance with its spirit and express provisions, our people have enjoyed all the rights of citizens, including that of suffrage, in many of the northern States; but if their right to vote is refused in other States, what becomes of their rights under Sec. 2d, Art. IV, of the Constitution, which guarantees to them as citizens of such a State "all the privileges and immunities of citizens in the several States," if the constitutional supremacy of that provision is to be set aside by State enactment? We believe this position to be impregnable, as stated in the words of counsel, in the report of the case which forms Appendix "B" to this address, that all the State laws imposing disabilities upon colored people on the ground of color, "being but a creation of slavery, and passed for its maintenance and perpetuation, are part and parcel of the system and must follow its fate." If we turn to the State Constitutions and Bills of Rights, our case is still stronger. The constitution of Georgia *now* only prescribes as the qualification that a voter must be "a citizen and inhabitant"; and while in the constitutions of other of the Southern States is found the word "white," when describing the necessary qualification for the right of suffrage, yet, on the other hand, in most instances, their bills of rights claim the exercise of the suffrage as the natural and legal right of every freeman, in the most unqualified manner. For instance, in Delaware, the Bill of Rights declares that "every freeman having sufficient evidence of permanent common interest with and attachment to the community, hath the right of suffrage." The Bill of Rights of the State of Virginia, adopted in 1776, and since prefacing and forming part of every Constitution of Virginia, declares also in Section 6th, "that all elections ought to be free, and that *all men* having sufficient evidence of common interest with, and attachment to the community, *have* the right of suffrage, and *cannot be taxed* or deprived of their property for public uses, without their own consent, or *that of their representatives* so elected, nor bound by any law to which they have not in like manner assented for the public good"; and yet, in defiance of this provision the present constitution goes on to confine the right of voting to white men exclusively.

It is hardly necessary here to refute any of the slanders with which our enemies seek to prove our unfitness for the exercise of the right of suffrage. It is true, that many of our people are ignorant, but for *that* these very men are responsible, and decency should prevent *their* use of such an argument. But if our people are ignorant, no people were ever more orderly and obedient to the laws; and no people ever displayed greater earnestness in the acquisition of knowledge. Among no other people could such a revolution have taken place without scenes of license and bloodshed; but in this

case, and we say it advisedly, full information of the facts will show that no single disturbance, however slight, has occurred which has not resulted from the unprovoked aggression of white people, and, if any one doubts how fast the ignorance, which has hitherto cursed our people, is disappearing, 'mid the light of freedom, let him visit the colored schools of this city and neighborhood, in which between two and three thousand pupils are being taught, while, in the evening, in colored schools may be seen, after the labors of the day, hundreds of our adult population from budding manhood to hoary age, toiling, with intensest eagerness, to acquire the invaluable arts of reading and writing, and the rudimentary branches of knowledge. One other objection only will we notice; it is that our people are lazy and idle; and, in support of this allegation, the objectors refer to the crowds of colored people subsisting on Government rations, and flocking into the towns. To the first statement we reply that we are poor, and that thousands of our young and able-bodied men, having been enlisted in the army to fight the battles of their country, it is but reasonable that that country should contribute something to the support of those whose natural protectors that country has taken away. With reference to the crowds collected round the military posts and in the cities, we say that though some may have come there under misapprehensions as to the nature of the freedom they have just received, yet this is not the case with the majority; the colored man knows that freedom means freedom to labor, and to enjoy its fruits, and in that respect evinces at least an equal appreciation of his new position with his late owners; if he is not to be found laboring for these late owners, it is because he cannot trust them, and feels safe, in his new-found freedom, nowhere out of the immediate presence of the national forces; if the planters want his labor (and they do,) fair wages and fair treatment will not fail to secure it.

In conclusion, we wish to advise our colored brethren of the State and nation, that the settlement of this question is to a great extent dependent on them, and that supineness on their part will do as much to delay if not defeat the full recognition of their rights as the open opposition of avowed enemies. Then be up and active, and everywhere let associations be formed having for their object the agitation, discussion and enforcement of your claims to equality before the law, and equal rights of suffrage. Your opponents are active; be prepared, and organize to resist their efforts. We would further advise that all political associations of colored men, formed within the limits of the State of Virginia, should communicate the fact of their existence, with the names and post office addresses of their officers, to Joseph T. Wilson, Norfolk, Va., in order that communication and friendly cooperation may be kept up between the different organizations, and facilities afforded for common and united State action, should occasion require it.

Second—Everywhere in Virginia, and doubtless in all other States, your late owners are forming Labor Associations, for the purpose of fixing and maintaining, without the least reference to your wishes or wants, the prices to be paid for your labor; and we say to you "Go and do likewise." Let Labor Associations be at once formed among the colored people throughout the length and breadth of the United States, having for their

object the protection of the colored laborer, by regulating fairly the price of labor ; by affording facilities for obtaining employment by a system of registration, and last, though by no means least, by undertaking, on behalf of the colored laborer, to enforce legally the fulfilment of all contracts made with him. To insure uniformity of action in this matter, throughout this State, it is desirable that a means of communication be afforded the different associations, and, for this purpose, Mr. Wm. Keeling, of No. 96 Church street, Norfolk, Va., a member of this committee, will receive all communications giving information of such associations formed within the limits of this State.

Third—The surest guarantee for the independence and ultimate elevation of the colored people will be found in their becoming the owners of the soil on which they live and labor. To this end, let them form Land Associations, in which, by the regular payment of small instalments, a fund may be created for the purchase at all land sales, of land on behalf of any investing member, in the name of the Association, the Association holding a mortgage on the land until, by the continued payment of a regular subscription, the sum advanced by the Association and the interest upon it are paid off, when the occupier gets a clear title. Communications from all such Associations in this State, with a view to the formation of a Union of the Virginian Colored Land Associations, will be gladly received by Mr. Geo. W. Cooke, No. 21 Fox Lane, Norfolk, Va.

Any of our white friends in this State, favorable to the views set forth in this address, would do us a great benefit by signing the pledge forming the cover of this pamphlet and forwarding it with their names and addresses to either of the Recording Secretaries of the Democratic Republican Association, described in Appendix "A," Messrs. C. E. Johnson, or T. L. R. Baker, both of Norfolk.

In concluding this address, we would now make a last appeal to our fellow-citizens of all classes throughout the nation. Every Christian and humane man must feel that our demands are just ; we have shown you that their concession is, for us, necessary, and for you expedient. We are Americans, we know no other country, we love the land of our birth and our fathers, we thank God for the glorious prospect before our country, and we believe that if we do but obey His laws He will yet enthrone her high o'er all the nations of the earth, in glory, wealth and happiness ; but this exalted state can never be reached if injustice, ingratitude, and oppression of the helpless, mark the national conduct, treasuring up, as in the past, God's wrath and your misery for a day of reckoning ; as the path of justice alone is ever the safe and pleasant way, and the words of Eternal Wisdom have declared that the throne (or nation) shall be established only by righteousness and upholden by mercy. With these reflections we leave our case in the hands of God, and to the consideration of our countrymen.

Signed, on behalf of the colored people of Norfolk and vicinity, June 26th, 1865.

DR. THOMAS BAYNE, Norfolk, Chairman of Committee.

JNO. M. BROWN, Pastor of the African Methodist

Episcopal Church, Bute Street, Norfolk, Va.

THOMAS HENSON, Pastor of the Catharine Street
Baptist Church, Norfolk, Va.
WM. KEELING, 96 Church street, Norfolk, Va.
GEO. W. COOKE, 21 Fox Lane, Norfolk, Va.
JOSEPH T. WILSON, 26 Hawk street, Norfolk, Va.
THOS. F. PAIGE, Jr., 27 Hawk street, Norfolk, Va.
H. HIGHLAND GARNET, Pastor 15th St. Presbyterian
Church, Washington, D. C., Honorary Member.

Equal Suffrage in Norfolk, Virginia.

The object of this pamphlet, as stated in the address prefacing it, is to give a succinct account of the movement, in the city of Norfolk, Va., to obtain for the colored people of this State and Nation its inestimable and indispensable right of suffrage.

Ever since the evacuation of Norfolk by the rebels, and its occupation by the Union army, on May 10th, 1862, the colored people of this district have enjoyed the blessings of freedom, and the more than paternal care and protection of the United States government. The facilities afforded them for the acquisition of knowledge, the necessities of their new position and the thousand questions as to the future arising from it, led many among them to perceive the necessity of organizing for united political action. A good deal of discussion took place privately without arriving at any result, until, in the early part of the year 1865, an attempt was made by part of the loyal white inhabitants of the city, to restore civil government, which had been supplanted by a military administration of affairs under Major General Butler. The colored people of Norfolk, who by the military authorities had been protected in the full enjoyment of the rights and liberties of loyal men, naturally looked with alarm and dissatisfaction on the proposal to restore the civil government on a basis which contemplated no representation of their rights and interests. A committee was at once formed, under whose auspices a meeting was held in the Mechanics' Hall, on Feb. 27, Mr. H. F. Trumble in the chair, and G. W. Cook, Sec., at which resolutions were adopted protesting against the restoration of civil government until the complete restoration of peace and the possibility of establishing civil government on a "loyal and equal basis." Copies of the resolutions adopted were sent to President Lincoln, Maj. Gen. Ord, commanding the department of Virginia, and Brigadier General Gordon, commanding the District, with a report of the proceedings of the meeting and a memorial on behalf of the meeting, signed by the chairman and secretary.

On the 4th of April, 1865, another public meeting of the colored people of Norfolk was held at the Mechanics' Hall, Rev. Wm. I. Hodges, President, which resulted in the formation of the "Colored Monitor Union Club,"

the primary object of which, as stated in the constitution, was to be "to promote union and harmony among the colored portion of this community, and to enlighten each other on the important subject of the right of *universal* suffrage to *all* loyal men, without distinction of color, and to memorialize the Congress of the United States to allow the *colored* citizens the *equal* right of franchise with other citizens; to call frequent meetings, and procure suitable speakers for the same; to form auxiliary clubs throughout the Eastern District of Virginia, to give publicity to our views all over the country, and to assist the present administration in putting down the enemies of the government, and to protect, strengthen and defend all friends of the Union." The organization of the club was completed April 6th, by the election of president, vice presidents, treasurer and secretaries. In pursuance of the objects of the club, large and enthusiastic public meetings of the colored citizens of Norfolk were held in the Mechanics' Hall, on April 25th, May 2d, and May 16th, at which much information was disseminated, respecting the movement in behalf of negro suffrage.

Besides the discussion of the question by the Colored Monitor Union Club, a lively interest was taken in the matter by the larger body of colored people outside the club organization, and a mass meeting was held May 11th, at the Bute Street Baptist Church (colored). The church was crowded, and Dr. Thomas Bayne was chosen president, and A. Portlock, Secretary. After prayer by the President, a committee on business was appointed, who reported the following resolutions, to wit:

1st. *Resolved*, That the rights and interests of the colored citizens of Virginia are more directly, immediately and deeply affected in the restoration of the State to the Federal Union than any other class of citizens; and hence, that we have peculiar claims to be heard in regard to the question of its reconstruction, and that we cannot keep silence without dereliction of duty to ourselves, to our country, and to our God.

2d. *Resolved*, That personal servitude having been abolished in Virginia, it behooves us, and is demanded of us, by every consideration of right and duty, to speak and act as freemen, and as such to claim and insist upon equality before the law, and equal rights of suffrage at the "ballot box."

3d. *Resolved*, That it is a wretched policy and most unwise statesmanship that would withhold from the laboring population of the country any of the rights of citizenship essential to their well-being and to their advancement and improvement as citizens.

4th. *Resolved*, That invidious, political, or legal distinctions, on account of color merely, if acquiesced in, or voluntarily submitted to, is inconsistent with our own self-respect, or the respect of others, placing us at great disadvantages, and seriously retards our advancement or progress in improvement, and that the removal of such disabilities and distinctions are alike demanded by sound political economy, by patriotism, humanity and religion.

5th. *Resolved*, That we will prove ourselves worthy of the elective franchise, by insisting upon it as a right, by not tamely submitting to its deprivation, by never abusing it by voting the State out of the Union, and never using it for purposes of rebellion, treason or oppression.

6th. *Resolved*, That the safety of all loyal men, black and white, in the midst of the recently slaveholding States, requires that all loyal men, black or white, should have equal political and civil rights, and that this is a necessity as a protection against the votes of secessionists and disloyal men.

7th. *Resolved*, That traitors shall not dictate or prescribe to us the terms or conditions of our citizenship, so help us God.

8th. *Resolved*, That as far as in us lies, we will not patronize or hold business relations with those who would deny to us our equal rights.

9th. *Resolved*, That we recommend that a Delegate Convention be held for the purpose of carrying out the foregoing objects and designs, and that, this meeting appoint a committee of seven to aid in getting up said Convention.

On motion, Lemuel W. Lee, Rev. John M. Brown, Rev. Thomas Henson and Edward W. Williams, were appointed a committee to carry out the objects and designs of the resolutions, and call this meeting again as soon as practicable.

In the meantime, the collapse of the rebellion and the subsequent recognition by President Johnson of Governor Pierpont as the Governor of the State of Virginia, also the approach of the time appointed by the new so-called constitution of the State of Virginia, for the State and Congressional elections, led to the appearance of several candidates for the honor of representing Norfolk in Congress and the State Legislature. Of the opinions and character of these candidates it is not necessary here to say one word, save that most of them were entirely unfavorable to negro suffrage. By proclamation of Governor Pierpont, the congressional elections were postponed, owing to the absence of county organization, but the State elections were authorized to proceed. In view of the position of affairs, a call was issued by a number of the white Unionists of the city for a "mass meeting of *all* loyal citizens without distinction of birth or color, to be held at the City Hall, May the 23d, 1865," to take such action as might be deemed desirable, in view of the coming elections. Although but short notice had been given the meeting was attended by about 150 white and over 2000 colored citizens. The meeting was organized by the election of Calvin Pepper, Esq., chairman, and Messrs. Dear, Baker and Paige, as secretaries. A committee of seven, five of whom were colored citizens, was appointed to draft resolutions to be submitted to the meeting. Addresses were delivered during the absence of the committee on resolutions, and, on the committee returning, the following preamble and resolutions were reported, which, after a little discussion, were put to the meeting seriatim and adopted unanimously:

WHEREAS, It is proposed to hold an election for representatives to the General Assembly of Virginia from this, the 2d District, in accordance with the provisions of a constitution framed by a convention assembled at Alexandria, Va., on the 13th day of February, 1864; and

WHEREAS, The said constitution has never been submitted to the people of the State for their approval, and has therefore no claim to be regarded as otherwise than provisional; and

WHEREAS, By this said so-called constitution there is no provision by which the votes of loyal colored men can be received by the conductors of elections; and

WHEREAS, It is desirable that the civil government of the State should be reorganized so soon as compatible with the interests of the United States upon a basis which shall give to all loyal citizens the right of suffrage, and of deciding upon the constitution of the reorganized State: therefore,

Resolved, That, as loyal citizens, we can recognize no civil government or civil officers in this State except so far as recognized or approved by the general government, and that we will sustain and carry out, to the best of our ability, the policy of the general government in the reconstruction of the Federal Union.

Resolved, That justice, humanity, sound political economy, and the public safety, require that all loyal men should be equal before the law, and have equal rights of suffrage at the ballot box, without distinction of birth, sect, creed, or color.

Resolved, That in view of the natural rights, enunciated in the last resolution, the political necessities of the times, and the fact that the constitution of the State authorizing the coming election is but provisional, and that the results of the said election will depend for their validity on their recognition by the government of the United States, that the colored people of this district already possess the *legal* as well as the *natural* right to vote, and that we call upon the loyal colored men of this District, to go to the polls on Thursday next, in their respective election precincts, and there tender their votes on behalf of the candidates of their choice.

Resolved, That a committee of five be appointed by the chair to take such action as may be deemed desirable in case of the rejection by the conductors of the election of the votes so offered.

Resolved, That in view of the exigencies of the times, and the necessity that all men elected to State offices should be men of tried fidelity to the Union, and of liberal sentiments, and that the candidates now before the public are in no way representative of the loyal citizens of Norfolk, but only of themselves, we therefore nominate and pledge ourselves to the support at the polls of the following candidates :

For the Senate—D. W. Todd, Sr.

House of Delegates—Francis De Cordy and James H. Hall.

Resolved, That the secretary be instructed to transmit the foregoing resolutions to the Secretary of State, with a request that they be laid before the President of the United States, and that copies of the same be sent to those members of Congress who have shown themselves favorable to the elective rights of the colored men, and the same be published in the local paper, and also sent to other papers friendly to the cause, with a request for insertion.

CALVIN PEPPER, President.

T. L. R. BAKER, }
JOSEPH A. DEAN, } Secretaries.

A committee was appointed to request the attendance of the gentlemen named as candidates, who had also previously been nominated by

the Union League of white loyal citizens, that the meeting might have an expression of their political views. All the candidates attended, and, with the exception of Mr. De Cordy, distinctly pledged themselves to vote for the enfranchisement of the colored population, if elected to the State legislature. It is needless to inform those who know the colored people, that the greatest order and decorum prevailed at the meeting, although the speeches delivered there were by the newspapers of the city characterized as "incendiary."

The above resolutions were also indorsed at a meeting of the "Monitor Union Club," held the same evening at the Bute Street Baptist Church (colored.)

On the morning of Thursday, May 25th, the day of election, a large gathering of colored men took place at the Bute Street Methodist Church, at 8 A. M., over 500 being present at the commencement of the proceedings, which number was afterwards largely increased. A committee having been appointed by the chairman of the public meeting, in accordance with the resolution, the committee proceeded to make arrangements for conducting the voting by dividing the persons present into four bodies, according to the ward in which each lived. It was at first determined to proceed in a body to the polls, and there tender the votes, but lest the obstruction to the polling, caused by the presence of such large bodies of men at the polling place should afford a pretext for disturbance, it was decided to appoint four committees to proceed to the polling places in each ward, and ascertain, by tendering their own individual votes, whether the votes of colored citizens would be received, either on the polling book, or if not, on the separate list provided by law for contested or disputed votes. The committees appointed were as follows:

1st Ward—Albert Portlock, Thomas Wisher, and Junius Fraser.

2d Ward—T. F. Paige, Jr., J. T. Wilson, and Peter Shepherd.

3d Ward—E. W. Williams, Geo. W. Cook, W. Southall.

4th Ward—Geo. W. Dawley, A. Woodhouse, Rev. Mr. Lewis, and A. Wilson.

The Rev. J. M. Brown was elected chairman, and Dr. Thomas Bayne secretary.

During the absence of the committees appointed as above the meeting engaged in prayer for the success of their efforts. On their return the committees from the 1st, 3d, and 4th wards reported that the conductors of the elections in those wards refused to receive the votes of colored people, in any manner whatever, while the committee from the 2d ward alone reported that the conductors of the election in that ward had consented to receive the votes of colored men upon a separate list, as of voters whose qualifications were a matter of dispute. On this announcement being made, the whole assembly rose, and, at the instance of the chairman, sang the hymn "Praise God, from whom all blessings flow."

Arrangements were immediately made by which the colored citizens of that ward should proceed to the polling place, ten at a time, and there tender their votes, and for recording at the Bute Street African Methodist Church the votes rejected at the other polling places. The names of the

voters living in the 1st, 3d and 4th wards were registered, and their votes received by the committees for those wards, before mentioned, and though occupying the whole day, the proceedings were conducted with the most perfect order and decorum.

The results of the day's polling were, at the church :—

Todd, 712	De Cordy, 712	Hall, 712
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which, with 354 votes cast for the same candidates, in the second ward, made the whole number of colored votes 1066; no colored vote being cast for any other than the candidates mentioned. The result of the white voting was widely different, though full of encouragement to the friends of negro suffrage, since the candidates pledged to that policy stood second on the poll, the result of the day's polling being as follows :

Robinson, 150	Todd, 89	Harrison, 81
Ellis, 124	DeCordy, 83	Hill, 81
Hardey, 133	Hall, 108	Cole, 20

When it is considered that only three years ago any man suspected of the slightest tinge of abolitionism would have been, at least, ridden on a rail out of the city, if he were fortunate enough to escape hanging in the market place, while now the avowed advocates of negro suffrage, on their first appeal to the people of this city, stand only second at the poll, there is quite enough in that single fact to fill every patriotic heart with wonder and gratitude at the astounding progress which, under Providence, has been made by public opinion in the direction of impartial freedom.

A meeting was held in the same place in the evening, Thomas Wisher in the chair, F. F. Paige, Jr., and A. T. Wilson acting as secretaries, and after various congratulatory remarks on the proceedings of the day, it was resolved "that Calvin Pepper, Esq., and the committees of election held in this place to-day, be requested to attend at the meeting of the Inspectors of Election, at the City Hall, to-morrow, to take such measures as may seem desirable, in consequence of the proceedings of to-day." It was also resolved that the proceedings of to-day be published in pamphlet form, to be accompanied by an address to men of all classes and conditions throughout the country, and that 5000 copies thereof should be printed for distribution.

No meeting of Inspectors of the Elections was held next morning, but the result of the polling was published by the Sheriff, from the returns of the conductors of elections, and no notice taken, or remark made, respecting the colored votes registered in the second ward. The committees of the election held at the Bute Street Methodist Church, met at Mr. Pepper's office, when affidavits were prepared setting forth the circumstances attending the registry of the votes rejected in the 1st, 3d and 4th wards, but taken at the church, and also as to the number of votes given in the 2d ward. On these affidavits, it is proposed when the legislature meets, to present a petition claiming the election, on the ground that these votes were improperly refused. We have no space here to enter upon the discussion of the legal principles on which it is claimed that the colored population of Virginia already possess the *legal* as well as natural right to vote, were it proper in this connection to do so, but it is desirable to state that we claim

that no unbiassed person can read the declarations of the Bill of Rights, incorporated in the constitution of the State of Virginia, or the constitution of the United States, without coming to the conclusion warranted by justice and humanity, that color alone affords no constitutional or legal ground for the imposition of any civil disability. It would be improper to conceal our expectation, that but little hope can be entertained of any redress at the hands of the present Virginia legislature, but behind these are the President and Congress of the United States, to which higher tribunals we intend to appeal.

A meeting was held at the Bute Street Colored Baptist Church on Monday evening, June 5th, Rev. Dr. Bayne in the chair, when committees were appointed to prepare the address published herewith, and to make arrangements for a public meeting to be held on Wednesday, June 14th, to adopt the address prepared by the committee, and authorize its publication.

It is in contemplation, as before stated, to call a general convention of the colored people throughout the State, to be held at Richmond at an early date, and in pursuance thereof meetings have been held in Norfolk, and at Hampton, and delegates appointed to attend the same on behalf of the colored population of those places.

On Thursday evening, June 15th, a meeting was held in the Catharine Street Baptist Church, Rev. Dr. Thomas Bayne, President, and Rev. J. M. Brown, James Robertson, James Newton and Miles Collyer were elected Vice Presidents, and Mr. J. T. Wilson, Secretary. The draft for the present pamphlet was read, which, with certain amendments, was unanimously adopted, and authorized for publication, and the Rev. H. Highland Garnett was elected an honorary member of the committee to prepare the address. Addresses appropriate to the occasion were delivered by the President and the Rev. H. H. Garnett, and after taking up a subscription for the expenses of the meeting, and the contemplated publication, the meeting then adjourned.

Such, in as few words as it was possible to relate, is the present position of the agitation among the colored people of Norfolk, in behalf of equal rights, an agitation for a just and constitutional end, conducted in a perfectly constitutional and peaceful manner, and unmarked, on the part of the colored people, by the slightest excess, or the least breach of order, though incitements to these have not been wanting in threats, provocations and slanders from the enemies of the colored race. This agitation has been peaceful and moderate, because, even in the absence of the right of suffrage, the people of Norfolk felt safe under the protection of the national authorities, and that the justice of their demands was so clear that they cannot fail in obtaining a speedy recognition at the hands of an enlightened and liberty-loving people. How far that hope will be justified by events the coming time will soon reveal; God grant they may never have to say that they appealed to the patriotism, justice and humanity of the American people and—appealed in vain.

APPENDIX A.

Equal Suffrage among the Recognized Union Voters of Norfolk.

The number of professed Union men who are openly in favor of the immediate concession of the right of suffrage to all loyal men irrespective of birth or color, is certainly small, but it is gratifying to know that what our avowed friends lack in numbers is fully compensated by their earnestness and activity. Not content with the private advocacy of this policy, they have boldly announced it as their platform and have just formed a political association to be called the "Democratic Republican Association," on the basis of the following pledge:

"We, the undersigned, mutually pledge ourselves to support no candidate for any office, National, State, or Municipal, who is not in favor of the immediate concession to all men of equal rights before the law, and equal rights of suffrage to all loyal men, without distinction of birth or color.

For the purpose of carrying out the principles of the foregoing pledge, and as preliminary to organized and systematic political action, we hereby form ourselves into an association to be called the Democratic Republican Association, and appoint provisionally, ——— President, ———, Secretary, and ———, Treasurer of the association, and will at once inaugurate a series of public meetings and publications, and memorialize the President and Congress, and invoke the aid of the friends of freedom throughout the State and Nation. Every person signing the declaration of principles will be regarded as a member of the association."

A considerable number of signatures having been appended to the papers in circulation containing the above pledge, a public meeting was called to meet at the City Hall, on Wednesday evening, June 21st, for the purpose of organizing the proposed association. Calvin Pepper, Esq., was appointed Chairman of the meeting, and Mr. P. F. Schliecker Secretary. A committee was appointed to nominate provisionally the officers for the organization, on whose report the following gentlemen were unanimously and provisionally elected:

President—

Vice Presidents—Calvin Pepper, J. R. Boush, W. A. Woodbuffy, S. Dickinson, W. B. Bond.

Recording Secretary—C. E. Johnson.

Assistant Recording Secretary—T. L. R. Baker.

Corresponding Secretary—Joseph A. Dean.

Treasurer—P. F. Schliecker.

The Chair was also authorized to appoint a financial committee pro tem.

It is evident that the white Unionists of Norfolk intend in the future to require from the candidates seeking their suffrages, something more than barren and noisy professions of Unionism, at which the recent and most doubtful converts from Secession and armed Rebellion are as good as any.

The following extract from a Richmond proslavery paper, the "Republic," will also show what is doing among the white Union men of Alexandria, Va., on the same question:

"AN ALEXANDRIA POLITICAL ORGANIZATION.—A political organization of some discontented people has been formed in Alexandria, with S. F. Beach, President, and J. M. Stewart, G. F. Watson, W. Willoughby, John Hawxhurst, and J. D. Adams, Vice Presidents; B. W. Hunter, Secretary; and William L. Jones, Treasurer. The principles of the organization are embodied in the following resolutions, which they have adopted:

1st—That it is essential to prevent the State of Virginia from coming under the control of those who have voluntarily engaged in promoting the late rebellion.

2d—That it now looks as if this control might be effected.

3d—That the right to change the fundamental law is inherent in the people, and, if not delegated, may be exercised by them at any time; and in the exercise of it all male citizens of the age of twenty-one years, who have not forfeited their rights by crime or otherwise, are entitled to participate.

4th—That the Constitution of Virginia should be so amended as to confer the right of suffrage upon, and restrict it to, loyal male citizens of the State, without regard to color; and that such amendment is just in itself, and is indispensable to a sound reorganization of the State Government."

APPENDIX B.

The Right of Colored People to Testify in Virginia.

[EXTRACTED FROM THE N. Y. TRIBUNE OF OCT. 4TH, 1864.]

Interesting and Important Proceedings in the United States Courts and State Courts in Virginia.

ALEXANDRIA, VA., Sept. 25, 1864.

In a suit now pending in the County Court of the County of Alexandria, Va., in which Israel Graff is plaintiff, and Richard Howard defendant, Calvin Pepper, attorney for the plaintiff, and S. Ferguson Beach, attorney for the defendant, the following bill of exceptions was signed and sealed by the court, consisting of five justices, after which, by consent of the parties, a juror was withdrawn, and the case continued until the next term of the court, and still remains in that court without final decision:

"And now at this day, that is to say, on the seventh day of September, in the year one thousand eight hundred and sixty-four, came the parties aforesaid, by their respective attorneys, and this case having come on for trial, the plaintiff's attorney, to prove the issue on the part of the plaintiff, called as a witness Israel Dorsey, a colored man from the State of Massachusetts, and, as stated by the attorney for the plaintiff, a citizen of the State of Massachusetts, and objection was made to his being sworn as a witness in the case on account of his African descent; this suit being be-

tween white persons, citizens of the State of Virginia. The counsel for the plaintiff did then and there insist that any colored citizen or person from Massachusetts was a competent witness in any suit in the Civil Courts of Virginia, in which white persons or citizens only are parties. But the Court did then and there decide, that said Israel Dorsey being a negro, and this being a suit between white persons exclusively, that said Israel Dorsey, although a citizen and resident of Massachusetts, could not be sworn as a witness in the case, he being a negro, and as such not a competent witness for or against white persons in the Courts of Virginia; to which decision of the said Court the counsel for the plaintiff did then and there except, and the plaintiff's attorney did then and there tender this his Bill of Exceptions to the said rulings and decisions of said Court, for the Court to sign, which is accordingly done, the day and year above written."

The action of the Court in this case is the same as that of all the State Courts and magistrates in regard to the admissibility of colored persons as witnesses, slave or free, residents of the State or from any other State, in any case, civil or criminal, in which a white person is a party, and is based upon that provision in the code of laws of Virginia which declares "A negro or Indian shall be a competent witness in the case of the Commonwealth for or against a negro or Indian, or in a civil case to which only negroes or Indians are parties, but not in any other case." This law has not been repealed or altered at either of the three sessions of the General Assembly of the restored Government of Virginia, so called, held since the breaking out of the rebellion, and the new Constitution of the State of Virginia, adopted by the Convention which assembled at Alexandria on 13th of February, 1864, is silent upon the principle involved. It was proposed in the Convention to insert as Section 35 of the Constitution, that no testimony shall be excluded from any court of the Commonwealth on account of the color of the witness, but the proposition received only three votes in its favor, one of which was that of S. Ferguson Beach, of Alexandria, the attorney for the defendant in the case of Graff against Howard. The civil State Courts themselves have been suppressed in Norfolk under the military administration of General Butler, and in all the Military Courts held in the State and in the United States Civil Courts, there is no distinction made as to the admissibility of testimony on account of color, but in the County of Alexandria, and a few of the counties where our arms have prevailed and Civil Courts of the State have been allowed to be instituted, the courts and petit magistrates attempt to carry out the provisions of this law and others of a similar nature, all of the same brood, the progeny of Slavery and born of hell, with a persistency and rigor, and such manifold wrong and oppression to the colored man, as to cry aloud for remedy, and not merely the occasional interference of the military authorities.

The case of Graff against Howard, will, if necessary, be taken to the highest Court of the State, and thence by writ of error after final decision to the Supreme Court of the United States, upon the constitutional questions involved; but in the meantime Israel Dorsey, whose testimony was rejected, has filed his Bill of Complaint in his own name in the Circuit Court of the United States, for the District of Virginia, against the Alex-

andria County Court, for a writ of *mandamus* to be directed to that Court, commanding them not to reject or refuse his testimony as a witness in the case of Graff against Howard, for any of the reasons or under the pretences as stated in the bill of exceptions in that case, and also a writ of *injunction* to restrain the Alexandria County Court from rejecting or refusing to receive him as a witness in that case until the coming in of the answer to the bill of complaint, and the decision of the court for the writ of *mandamus* prayed for in the bill. The complainant Dorsey claims that as a citizen of Massachusetts, and under that clause of the Constitution of the United States, which declares that "the citizens of each State shall be entitled to all the privileges and immunities of citizens of the several States," that he has the same and an equal right to be sworn as a witness in the State Courts of Virginia, as the white citizens of that State, subject only to the same disabilities, and that a denial of this right to him by the County Court of Alexandria was a positive wrong and grievance, a violation of a substantial, substantive right secured to him by the Constitution of the United States, which, in his case, may be enforced in the United States Circuit Court. The judicial power of the United States by the Constitution extends to all cases between citizens of the different States, and the Judiciary act of 1789 gives the Circuit Court original jurisdiction and concurrent with the State Courts in such cases, and power to issue all *writs* necessary to the exercise of their jurisdiction and agreeably to the principles and usages of law. A corporation, if all its members are citizens of another State, or a court of another State, may be regarded as a citizen in the sense necessary to give the United States Circuit Court original jurisdiction as between citizens of different States.

There not having been any Circuit Court of the United States for Virginia in session since the breaking out of the rebellion, the complainant Dorsey presents his petition to the Honorable John Underwood as Judge of the United States District Court for the Eastern District of Virginia, for the allowance of the writ of *Injunction* in the Circuit Court prayed for in the bill of complaint, not to extend beyond the next term of the Circuit Court.

By the act of Congress, March 2, 1793, writs of *injunction* may be granted by any judge of the Supreme Court or Circuit Court that may be granted by a Supreme or Circuit Court; and by the act of February 13, 1807, Judges of the District Court have the power to issue writs of *injunction* the same as Supreme Court judges. His Honor Judge Underwood having the same power to issue the writ of *injunction* that the Circuit Court itself would have upon the bill filed and the case presented, except that it must be confined to his District, and not to extend beyond the next term of the Circuit Court, it is competent for him in deciding to allow or disallow the writ, to pass upon all the questions presented, including the merits, and his opinion will, in all probability, govern the action of the State Courts hereafter, in regard to the exceedingly interesting and important questions involved, and the whole proceeding will come to a satisfactory and happy speedy termination.

The application before Judge Underwood for the allowance of the writ of temporary *injunction*, came up before the Judge of the United States

Court Room, at Alexandria, on the 16th inst. Calvin Pepper, of Alexandria, and ex-Governor Ford, of Ohio, now of Washington, appeared for the petitioner Dorsey, and Lysander Hill, Esq., for the County Court of Alexandria, and the Hon. S. Ferguson Beach to represent the interests of his client, the defendant in the case of Graff against Howard. His Excellency Governor Pierpont, Governor of the restored State of Virginia, the Mayor, several of the magistrates, and all the constables of Alexandria, were personally present, to see to it that no detriment should come to the Commonwealth from the proceedings being had. A numerous and highly respectable committee of the colored citizens of Alexandria, appointed at a public meeting, were present in court, and excited the respect and sympathy of all generous minded persons in the court room. The right of these colored men and that of every other colored man in Virginia to testify and to have colored testimony in their behalf, so essential to the protection of life, liberty and property, has been taken from them by the same law by which the testimony of Dorsey was excluded, and as he is contending for their rights and that of every other colored man, as well as his own, they have assumed the entire expenses of the suit, and carry it on in behalf of civil liberty and universal emancipation. The Judge remarked that he did not wonder at the interest manifested by the colored people in the questions involved, for it had come to his knowledge that but the night before a colored man had been kidnapped from Alexandria, and that the perpetrators expected to escape justice, as there were no witnesses but colored witnesses to testify against them, and that their testimony would be excluded under the law complained of. After some desultory conversation the hearing of the application was postponed until the third Monday of October, Mr. Ford stating that the case would present or could be so shaped as to present questions of momentous importance, including the powers and duties of a rebellious State in the process of reconstruction or under a provisional government, and that he wanted time for preparation, as he had been retained in the case only the day before. The Judge, in postponing the case, remarked that the question about which he had the most doubt was as to his power and jurisdiction, and requested to be informed particularly upon that subject.

The following are understood to be the principal points relied upon by the respective counsel :

It is contended by the defendant's counsel that the complainant Dorsey has no status before the Circuit Court or District Judge, he not being a citizen within the meaning of the constitution, or a party to the suit in the Alexandria County Court ; that the only interests of his affected are abstract and fanciful, and not a positive right, privilege, or immunity, for which he can seek a remedy in courts of law ; that the only party who has a right to complain of the action of the Alexandria County Court in the case of Graff against Howard is Graff, the plaintiff in that suit ; and that his remedy, if any exists, is confined to proceedings in that suit and in the State Courts, and that the United States Courts, or Judges, have no jurisdiction over the person or the subject matter. That a State cannot be enjoined, or the proceedings of a State Court stayed, by the United States

Courts, and that no writ of mandamus or injunction can issue to any court to arrest errors of judgment, the remedy being by appeal, new trial, bill of exceptions, writ of error, &c., and not by mandatory process to the inferior Court.

The counsel for the complainant contends that a dear and substantial right of immeasurable importance to every man and freeman, that of equality in the eye of the law, has been taken from him in violation of the constitution of the United States, that his wife may be ravished, his home burned, his property destroyed in his very presence, or himself robbed, beaten or maimed by white persons with impunity and without the possibility of the offender being brought to justice, under this decision of the Court, no matter how many colored persons may witness the transaction. That the white man's testimony is to be allowed against him even to the taking of all his property, the deprivation of his liberty, the jeopardy of his life, but he cannot be allowed to testify in his own behalf or have the testimony of others colored like himself, and must keep silence when his testimony in behalf of truth and justice may be necessary to prevent wrong and injustice to others. How can a man, a citizen of Massachusetts, be said to enjoy equal rights, or any right—the same privileges and immunities allowed to a white ruffian of Virginia—with a law that degrades him in comparison, and places him completely at his mercy, from distinction of color merely? The right to testify is not abstract and fanciful, but real and practical, and its deprivation must have a remedy; and there must be some court empowered to make it effectual. Dorsey, not being a party to the suit of Graff against Howard, cannot cause it to be proceeded with in the State Courts, or removed to the United States Courts, his only remedy then being by bill or suit in his own behalf, to right his own wrong, and as a citizen of another State he can proceed in the United States Circuit Court, and to make his remedy effective that Court must have the power to issue the mandamus asked for, and the United States District Judge to grant the injunction, his power being coextensive with the Circuit Court in that respect, with the limitations before mentioned. That this cannot be said to be a suit in which a State is a party, and in which case the Supreme Court of the United States would alone have original jurisdiction, and then only when brought by a citizen of the same and not of another State, but a proceeding against a State Court of limited jurisdiction, and as between citizens of different States properly brought in the Circuit Court of the United States, and not to stay but to correct the proceedings of a State Court, so far as the same are in violation of the rights of a citizen of another State. Although a State cannot be sued by a citizen of another State in the United States Courts, yet parties, corporations, or courts acting under the authority and in pursuance of the laws of a State, may be made parties defendant, and proceeded against, and the State laws afford them no protection, if in violation of the constitution and laws of the United States. The Circuit Court having jurisdiction of the person and subject matter, it follows that it has all the coercive power necessary to make its jurisdiction effective, including the issuing of writs of mandamus and injunction to the State Courts, and this has been frequently done, not to stay proceedings

in the State Court or to suspend it in the exercise of its functions, but to prevent it exceeding its powers, and to regulate its action in conformity to the Constitution and laws of the United States. The Alexandria County Court may proceed at any time with the case of Graff against Howard, and cannot be restrained, but in so doing must not trample upon the rights of Israel Dorsey, not a party to the suit, rights guaranteed to him by the constitution of the United States as a citizen of another State. The infringement and denial of these rights is not to be regarded as an error of judgment, merely to be corrected by appeal and review in the suit and not by mandamus, but requiring a separate and independent proceeding necessary to enforce a right and prevent a wrong, and which can be done on behalf of Dorsey in no other way.

It is also claimed by the counsel for the complainant that the law of Virginia upon which the testimony of Dorsey was excluded, being but a creation of slavery, and passed for its maintenance and perpetuation, is part and parcel of the slave system, and must follow its fate, and is inconsistent with a state of freedom, and hence is not now in force or operative, by reason of the rebellion; and that the same has been abolished by the Emancipation Proclamation of the President—Alexandria not being one of the excepted counties; and also by the new constitution of the restored State of Virginia, which abolishes slavery, and by implication all its concomitants, throughout the entire State. That this and every court is bound to recognize the fact that the disabilities created by this law are contrary to the declared policy of the general government, and its principles and action in conducting the war, and restoring civil government to the rebellious States, and to cooperate with the general government in carrying out this its settled policy and convictions. Congress, at its last session, passed a law, approved by the President, and which is now obligatory upon all the courts, that in all the United States Courts the testimony of witnesses shall be received, without the distinction of color; and the same provision was also embodied in the law passed by Congress for the reconstruction of the rebellious States, which failed to receive the signature of the President, but who approved of its general principles. The attempt to enforce this law of Virginia, on the part of the so called State Courts, is so far *rebellion* against the United States Government, and in defiance of its dignity and authority, and should be so considered and declared by the United States Courts and Judges. It is contended that the civil State government of Virginia, if any such legally exists, is Provisional only, and that the Alexandria County Court is such only by sufferance and may be restrained and controlled by the war powers of the government, and that the United States Courts, in a rebellious State, are in duty bound to so shape their action, regardless of State laws, so far as they may contravene, as to cooperate with the general government for the suppression of the rebellion, and for this purpose may exercise *extraordinary* and *plenary* powers, if not prohibited by the military authorities, and with their consent, in preventing the improper exercise of power by the State Courts.

In this case the counsel for the complainant believe that the court and

the district judge, in the legitimate exercise of their judicial powers, as in times of peace, can grant the prayer of the complainant; but should such not be the case, that in view of the rebellion and the exigencies of the country it need not strictly scrutinize its powers or govern its action as in ordinary times, but by declaration, by advice, by *obiter dictum*, by compulsory action if need be, aid in the reconstruction of the rebellious State of Virginia, and its restoration to the Federal Union, upon the principles of justice, equality and advancing civilization. P.

[ALSO FROM THE N. Y. TRIBUNE OF OCT. 22, 1865.]

Opinion of Judge Underwood on the Right of Excluding the Testimony of Colored Men from the Courts of Justice.

United States District Court, District of Virginia, in the matter of the petition of Israel Dorsey, a citizen of Massachusetts.

The use of the courts of the country and the right to give testimony in them are privileges so fundamental and important to the security of personal and domestic peace, as to make their denial one of the greatest wrongs, next to slavery itself, which can be inflicted on a human being.

If the denial is permitted, the victim may be robbed upon the highway, his house burned over his head, his wife or child ravished or murdered before his eyes, without remedy or redress. We see therefore that the right to testify in courts of justice is not only essential to personal dignity and safety, but it is the very bulwark of defence of all other individual, domestic and social rights, and that nothing but conviction of a high crime can possibly justify its invasion. The clause of the United States constitution on which the petitioner relies is the first of the second section of Article 4, and is in these words:

"The citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States."

Alexander Hamilton, in commenting upon this clause in the 80th number of the Federalist, says:

"It may be esteemed the basis of the Union. And if it be a just principle that every government ought to possess the means of executing its own provisions, by its own authority it will follow that in order to the inviolable maintenance of that equality of privileges and immunities to which the citizens of the Union will be entitled, the national judiciary ought to preside, in all cases in which one State or its citizens are opposed to another State or its citizens. To secure the full effect of so fundamental a provision against all evasion and subterfuge, it is necessary that its construction should be committed to that tribunal, which, having no local attachments, will be likely to be impartial, between the different States and their citizens, and which owing its official existence to the Union, will never be likely to feel any bias inauspicious to the principles on which it is founded."

In the same paper he says: "There ought always to be a constitutional method to give efficacy to constitutional provisions. It will be remembered that to give effect to this very provision, and to secure the invaded rights of her citizens, the legislature of Massachusetts many years ago sent an eminent jurist, Judge Hoar, to the State of South Carolina with an appeal to the Courts of Justice. His appeal was rudely rejected, and himself and daughter by mob violence driven from that State of lawless madmen, who were then just beginning their wild rush from the crime of slavery to the kindred crimes of treason and rebellion against the best government that ever blessed the world. Nor is it too much to assert that the neglect to give Practical effect to this constitutional provision has been an efficient cause of the war now desolating the country.

In support of these views the case of *Corfield vs. Coryell*, 4th volume Washington Circuit Court Reports, pages 380 and 381, is directly in point, and would seem conclusive. Mr. Justice Washington in his opinion says of the clause in question:

"The inquiry is, what are the privileges and immunities of citizens in the several States? We feel no hesitation in confining these expressions to those privileges and immunities which are in their nature fundamental. They may be all comprehended under the following general heads: Protection by the Government; the Enjoyment of Life and Liberty, with the right to acquire and possess property of every kind, and to pursue and obtain happiness and safety; the right of a citizen of one State to pass through or to reside in any other State, for purposes of trade, agriculture, professional pursuits or otherwise, to claim the benefit of the writ of habeas corpus, to institute and maintain actions of any kind in the Courts of the State, to take hold and dispose of property, real and personal, and an exemption from higher taxes or impositions than are paid by the other citizens of the State. These and many others which might be mentioned are strictly privileges and immunities, and the enjoyment of them by the citizens of each State in every other State are manifestly calculated (to use the expressions of the preamble of the corresponding provision in the old articles of confederation) the better to secure and perpetuate mutual friendship and intercourse among the people of the different States of the Union."

The right to testify must be included in the foregoing enumeration as a part of the right to use the Courts, and several of the rights enumerated are certainly less vital and fundamental than the right in question.

No one who has read the able opinion of Attorney General Bates, utterly demolishing the unfortunate *obiter dicta* in the Dred Scott case, can doubt that colored men may be citizens of the United States and of the several States; and, indeed, all the counsel in this case seem to admit that the petitioner is a citizen of Massachusetts.

This Court has no doubt that a citizen of Massachusetts has a right to demand the protection of his oath, and the use of the Courts of Virginia or any other State of this Union, in virtue of the above quoted constitutional provision, which, like a treaty stipulation between independent States, abrogates every State law which may attempt to defeat its wise and benevolent and truly national operation.

Massachusetts may with perfect propriety say to Virginia, No matter with what wrongs, for the purpose of sustaining a bloody and barbarous system, you outrage humanity in the persons of colored men born and reared upon your own soil, I demand of you by the sacred guaranty of your constitutional obligations, that the humblest of my citizens, when a sojourner in your territory, shall be secure in all the great fundamental rights of human nature.

On the 22d day of June, 1772, the Court of the King's Bench decided in the case of James Sommersett, claimed as a slave by a Virginia planter named Charles Steuart, that "the state of slavery is of such a nature that it is incapable of being introduced on any reasons moral or political, but only by positive law. It is so odious that nothing can be suffered to support it but positive law, and therefore the black must be discharged." Such, in that celebrated case, was the language of Lord Mansfield, the most brilliant light in the constellation of British Judges who made their land immortal and raised themselves to the most sublime moral elevation by stooping to lift the lowly and crushed of their fellow citizens and to place them upon the great table land of British security and protection. It was on the argument of the same case that counsellor Davy made the never-to-be-forgotten declaration that the air of England was "too pure for a slave to breathe in."

It is time for us to say the soil of Virginia, soaked by the blood of so many martyrs of freedom, is too sacred to be ever again pressed by the footstep of a slave.

The Senator from Virginia, who, in 1850, excited the indignation of all christendom by demanding of Congress additional enactments to facilitate man and woman hunting through the length and breadth of the country, freely admitted that there was no positive law in Virginia establishing slavery, and that the system rested alone upon custom. He might well have added,

"It is a custom
More honored in the breach than the observance."

How then can any one who respects the humane principles declared in Lord Mansfield's time-honored opinion for one moment regard slavery or any of its incidents as of any legal force in this State?

The court will always be ready to apply Lord Mansfield's principles to slavery and its supports and incidents, and the law in question is nothing more, and it has also the strongest conviction that the State law excluding the testimony of colored men from the courts of justice is utterly null and void, because it is entirely repugnant to her glorious Declaration of Rights, which, following the decision of Lord Mansfield, was adopted in June, 1776, as part of the Constitution of the State. Never has that Declaration been repealed, but it has been repeatedly reaffirmed and continued as the basis of every State constitution of Virginia up to and including that of 1864.

Among the provisions of that Declaration are the following :

1. "That all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society,

they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety."

4. "That no man or set of men are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services."

15. "That no free government or the blessing of liberty can be preserved to any people but by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by a frequent recurrence to fundamental principles."

In the light of such guarantees the enactment excluding the testimony of any man unconvicted of an infamous crime could not be executed or tolerated for a moment by a civilized and Christian people, but for the debasing and demoralizing influence of the great abomination of slavery, which, invading every department of society, ascending even the pulpit and the halls of justice, has too successfully labored to poison and paralyze the public conscience, pronouncing itself with all the brazen impudence of the bottomless pit, a divine institution, and asserting the cruel doctrine that the dearest human rights are only skin deep, and that dusky men have none which paler men are bound to respect.

Never should the courts of Virginia deny this fundamental privilege of manhood to any innocent human being, and least of all to a citizen of Massachusetts—the cradle of the American Revolution of 1776—the first State to abolish slavery, the first to scatter the seeds of knowledge and science throughout her bounds, to bless all the people who dwell within the influence of her generous and beneficent institutions.

Had Congress clearly conferred upon this Court the necessary power, the relief prayed for by the petitioner would be cheerfully and speedily granted. But the method of proceeding in order to secure the benefit of a right fully guaranteed by the Constitution has been left in great doubt and obscurity from some cause, probably from an influence which in the future will be neither felt nor feared. With a view therefore of obtaining the aid of Congress at the approaching session, and with the hope also that the Legislature of this State, soon to assemble, may do itself and our old Commonwealth the honor of wiping the wicked enactment, excluding the testimony of colored men in any of our Courts, from our code of laws, burying it in the same grave with its barbarous twin brother, slavery, thus obviating the necessity of further action by this court, the case is put over for final action, and if desired for further argument, to the next term.

SPECIAL NOTICE.

In accordance with the recommendations in the Address, it is hereby earnestly requested that the Secretaries of all Political, Labor, and Land Associations formed among the colored people of Virginia will communicate with one of the three gentlemen named below, giving the name of each Association, the date of its formation, and the names of its officers.

The Secretaries will please address as follows respecting the different Societies :

For Political Associations, to

JOSEPH T. WILSON, Norfolk, Va.

For Labor Associations, to

WM. KEELING, 96 Church Street, Norfolk, Va.

For Land Associations, to

GEO. W. COOK, 21 Fox Lane, Norfolk, Va.

ALL our white friends in the State of Virginia approving of the principles of the following Pledge, will materially aid our cause by signing the same and forwarding it by post to Mr. T. L. R. Baker, Assistant Recording Secretary of the Association, at Norfolk, Va.

We, the undersigned, mutually pledge ourselves to support no candidate for any office, National, State, or Municipal, who is not in favor of the immediate concession to *all men* of equal rights before the law, and equal rights of Suffrage to all loyal men without distinction of birth or color.

For the purpose of carrying out the principles of the foregoing Pledge, and as preliminary to organized and systematic political action, we hereby form ourselves into an Association to be called the "Democratic Republican Association," and appoint provisionally,

President, C. E. Johnson,
T. L. R. Baker, and J. A. Dear, Secretaries, and P. F. Schliecker, Treasurer, of the Association, and will at once inaugurate a series of public meetings and publications, and memorialize the President and Congress, and invoke the aid of the friends of freedom throughout the State and Nation. Every person signing the declaration of principles will be regarded as a member of the Association.

Name (in full.) Occupation. Residence.

Organizations in Virginia.

UNION MONITOR CLUB, NORFOLK.

Organized February, 1865.

President, REV. WM. J. HODGES.

Vice President, JAMES MOSELY.

2d Vice President, WM. KEELING.

Treasurer, GEORGE CORPREW.

Secretary, THOS. F. PAIGE, JR.

Assistant Recording Secretary, EDW. W. WILLIAMS.

Corresponding Secretary, J. THOS. WILSON.

UNION LEAGUE, HAMPTON.

Organized March, 1865.

OFFICERS ELECTED.

A. DUNLOP, President.

PETER SPOTSWELL, Vice President.

CAREY HOPSOME, Treasurer.

RICHARD WILLS, Secretary.

COLORED UNION LEAGUE, WILLIAMSBURG.

Organized May, 1865.

OFFICERS ELECTED.

ALEX. DUNLOP, President.

H. DAVIS, Secretary.