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OHIO AND AMENDMENT THIRTEEN: A STATE BIOGRAPHY OF
THE FIRST NATIONAL REFORM AMENDMENT 1861-1865

DISSERTATION
Presented in Partial Fulfillment of the Requirements for
the Degree Doctor of Philosophy in the Graduate
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By
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The Ohio State University
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Major Field: 19th Century American Constitutional History

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Studies in Civil War and Reconstruction. Professors Merton Dillon and Henry H. Sims
ABSTRACT

OHIO AND AMENDMENT THIRTEEN: A STATE BIOGRAPHY OF THE FIRST NATIONAL REFORM AMENDMENT 1861-1865

Willie Sherman Jackson, Ph.D.
The Ohio State University, 1969

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The adoption and ratification of Amendment Thirteen to the Constitution by the states in December, 1865, climaxed a long and controversial struggle by the abolitionists to end the institution of slavery. The abolition of slavery in the United States through a constitutional amendment marked the first time that the amending process of the Constitution had been used to effect a nationwide social reform as distinguished from procedural reforms. Significantly, the first eleven amendments were primarily procedural and had restricted only the federal government. The Twelfth had effected electoral reform. But the Thirteenth reached within the jurisdictions of the states and radically altered their social structure.

Because it did bring an end to the domestic institution of slavery, the Thirteenth Amendment has often been referred to as the first national reform amendment. Although the abolition of slavery in America through a constitutional Amendment was unprecedented, its adoption was consistent with the general constitutional trend of expanding the areas of federal concern and action. In terms of this kind
of constitutional expansion, the Thirteenth Amendment did not mark
a departure from tradition. Rather, it marked a ressumption of the
nationalizing constitutional views of Alexander Hamilton and John

Ohio had been one of the several states to approve the Corwin
Amendment in 1861. That amendment had attempted to perpetuate slav­
ery, presumably to preserve the Union. Obviously, the approval of
the Amendment reflected a major change. The idealistic abolitionist
group in Ohio had sustained itself and perhaps gained new converts.
Yet, in the end, it was the fact that the ratification of the amend­
ment appeared inevitable that explains Ohio's approval. This study
is therefore a biographical account of the changing attitude of Ohio
toward the abolition of slavery as a military expediency to help
preserve the Union.

A state that had been deeply divided on the issues of slavery
and abolition, now moved to implement the amendment by altering state
law. For example, its Republican dominated General Assembly in 1865
voted to remove the last of Ohio's Black Laws by making Blacks eligi­
ble for a relief program to help the state's destitutes. Simultan­
eously, it passed a law which repealed the Visible Admixture Law
which had denied anyone with "a visible and distinct admixture of
African blood" the right to vote. Since the Thirteenth Amendment had
repealed the three-fifth compromise, thereby increasing House repre­
sentation of the South by nineteen additional votes, serious efforts
were made to protect the political and economic position of the Re­
publicans in power by enfranchising the black man.
Although Amendment Thirteen was basically a military and humanitarian measure, there were those who feared that freedom of the black man meant a threat to the status quo. This fear was particularly evident in the mid-western region, and the plight of the black man in Ohio helps to demonstrate this point. In regard to the Blacks, Ohio remained ambivalent. The Fifteenth Amendment, adopted in March of 1870, definitely enfranchised the Blacks. Under the operation of this amendment some Blacks did vote in certain Ohio counties. Yet, in defiance of the federal constitution, as late as 1911, the Ohio constitution used the term 'white' in describing the qualifications of voters.
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACKNOWLEDGMENTS</td>
<td>ii</td>
</tr>
<tr>
<td>VITA</td>
<td>iii</td>
</tr>
<tr>
<td>INTRODUCTION</td>
<td>2</td>
</tr>
<tr>
<td><strong>Chapter</strong></td>
<td></td>
</tr>
<tr>
<td>I. THE CORWIN RESOLUTION: PREDECESSOR OF AMENDMENT THIRTEEN</td>
<td>3</td>
</tr>
<tr>
<td>II. SLAVERY AND THE ABANDONMENT OF FEDERAL NON-INTERFERENCE</td>
<td>24</td>
</tr>
<tr>
<td>III. HOUSE OPPOSITION TO AMENDMENT THIRTEEN</td>
<td>45</td>
</tr>
<tr>
<td>IV. AMENDMENT THIRTEEN AND OHIO POLITICS OF 1864</td>
<td>56</td>
</tr>
<tr>
<td>V. JAMES M. ASHLEY AND AMENDMENT THIRTEEN</td>
<td>80</td>
</tr>
<tr>
<td>VI. OHIO ACCEPTS NATIONAL EMANCIPATION</td>
<td>100</td>
</tr>
<tr>
<td>BIBLIOGRAPHY</td>
<td>107</td>
</tr>
</tbody>
</table>
INTRODUCTION

Because slavery was prohibited in Ohio by the Ordinance of 1787, it attracted various groups of people: Quakers, New Englanders, free Blacks and Southern born whites. Thus, geographically, a political, social and economic situation existed in Ohio that reflected the problems confronting the Union in 1861. This study is an attempt to examine Ohio's changing attitude toward the abolition of slavery as a military and humanitarian measure.
CHAPTER ONE
THE CORWIN RESOLUTION: PREDECESSOR OF AMENDMENT THIRTEEN

With the election of Abraham Lincoln to the presidency in November, 1860, the South carried out its threat to secede. Although the threat of secession was nothing new in the South, the adoption of a secession ordinance by South Carolina on December 20th by a unanimous vote of the 169 members in the legislature manifested that the disruptive force of sectionalism had reached the breaking point. Faced with the dilemma of dis-Union, President James Buchanan "spent the secession crisis nervously hoping that the deluge might not descend until he was out of office."¹

Because of the "waiting" attitude adopted by Buchanan toward the national crisis of secession, it became quite apparent that the fate of the nation depended on congressional diplomacy. Thus, on the eve of the Civil War, last minute attempts were made by a Democratic lame-duck Congress to avoid a conflict between the North

and South. Of the many compromises, the most noteworthy was the six part proposal introduced by Kentucky Senator J.J. Crittenden on December 18, 1860:

1. In all territory of the United States south of the old Missouri line, either now held or to be hereafter acquired, the slavery of the African race is recognized as existing, not to be interfered with by Congress, but to be protected as property by all the departments of the Territorial Government during its continuance.

2. Congress shall have no power to interfere with slavery even in those places under its exclusive jurisdiction in the slave States.

3. Congress should never interfere with slavery in the District, except with the consent of Virginia or Maryland, nor without the consent of the inhabitants of the District, nor without just compensation for the slaves, nor shall Congress prohibit officers of the General Government nor members of Congress from bringing with them their slaves to the District, holding them there during the time their duties may require them to remain, and afterwards taking them from the District.

4. Congress shall not interfere with the transportation of slaves from one State to another, or from one State to any Territory south of the Missouri line, whether that transportation be by land, by navigable river or by sea.

5. Congress shall have the power to provide for the payment of the owner of a fugitive slave his full value from the National Treasury, in all cases where the marshall was prevented from arresting said fugitive by violence or intimidation or where the fugitive, after arrest, was rescued by force.

6. No future amendment to the Constitution shall ever be passed that shall affect any provision of the five amendments just recited; that the provision in the original Constitution which guarantees the count of
three-fifths of the slaves in the basis of representation shall never be changed by any amendment; that no amendment shall ever be made which alters or impairs the original provision for the recovery of fugitives from service; that no amendment shall be made that shall ever permit Congress to interfere in any way with slavery in the States where it may be permitted.  

To consider the now famous Crittenden Compromise the Senate appointed a select Committee of Thirteen which became hopelessly stalemated and could not reach any positive results. After the failure of the Senate committee to reach an agreement, public attention shifted to the "grand" House Committee of Thirty-three, which was striving to find some alternative compromise; each delegate on the committee represented a state in the Union.

The chairman of this "peace committee" was the former Whig Governor and Representative from Ohio, Thomas Corwin. A conservative Republican and gifted orator, Corwin was deeply disturbed over the impending crisis. During the discussions of his committee he sought in vain to effect a compromise acceptable to the North and South. In addition to the internal animosities that divided the committee, it was obviously affected by continuous threats and acts of secession by Southern states. By the time the committee finally presented its report to Congress on January 14, 1861, four states had seceded: South Carolina, December 20, 1860; Mississippi, January 9, 1861; Florida,

\(^2\)Congressional Globe 36th Congress, 2nd Session, 1861, p. 114.
January 10, 1861 and Alabama, January 11, 1861. The actual report of the Committee was in effect a modified version of the Crittenden Compromise:

1. Slavery exists by law and usage in fifteen States, and we recognize no outside authority to interfere with it. The fugitive-slave law should be faithfully executed. There is no cause for a dissolution of the Union. States must observe their constitutional obligations. The Union must be preserved. Personal liberty bills and kindred legislation should be revised, and all rights of traveling or sojourning citizens of other States should be secured. John Brown raids should be prevented.

2. A joint resolution requesting all States to revise their statutes and repeal all laws in conflict with, or tending to hinder or embarrass, the fugitive-slave law.

3. A bill to amend the fugitive-slave law, giving the fugitive a jury trial in the State from which he fled, with aid of counsel and process for procuring evidence at the cost of the United States, and to be delivered to claimant, or returned to the place of arrest, according to judgment, at the expense of the United States.

4. A bill to amend the act for the rendition of fugitives from justice, giving Federal judges, instead of governors of States, authority to act or requisition.

5. A bill to admit New Mexico as a State with or without slavery.

6. A joint resolution proposing an amendment to the Constitution of the United States, to the effect that no amendment to interfere with slavery within the States shall

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 originate with any non-slave-holding State,
or become valid without the consent of every
one of the States composing the Union."4

The Corwin resolutions were not unanimously supported by the
entire committee, and there were seven dissenting minority reports,
signed by fourteen of its members and submitted immediately at the
conclusion of the majority report. Among those dissenting was Mas-
sachusetts Representative Charles Francis Adams, whose general con-
clusion was that no peace program would be satisfactory to the "re-
cusant" states unless the right to protect and extend slavery was
specifically incorporated into the Constitution of the United States.
Since he would never consent to the South's demand, he believed it was
his duty to "dissent from the action of a majority of his colleagues."5
Later in a letter to the newly-elected President of the United States,
Abraham Lincoln, Corwin described the mood of the committee members.
During the thirty days that the Committee of Thirty-three was in ses-
sion, wrote Corwin, harmony was wanting, and if the "States are no
more harmonious in their feelings and opinions than these thirty-three
representative men, then, appalling as the idea is we must dissolve,
and a long and bloody civil war must follow."6 His inability to com-
prehend the "madness of the times" convinced him that Southerners
were "theoretically crazy" and Northerners were "practical fools."
He definitely believed that treason existed everywhere under the
guise of patriotism: "Men in Congress boldly avow it, and the public
offices are full of acknowledged secessionists."7

5Ibid., House Minority Report, p. 3.
6Ibid., p. 218.
7Ibid.
That Corwin was pessimistic about the fate of the Union is manifested in his concluding statement: "God alone, I fear, can help us. Four or five States gone, others are driving before the gale." 8

In addition to Corwin's overt pessimism, he was further frustrated by the House's refusal to open discussion on his peace program until mid-February. When discussion of the Corwin resolutions finally began on February 18th, it was characterized by angry debates. Nevertheless, each of the first five amendments received an overwhelming majority vote.

However, during the debate on the proposed constitutional amendment prohibiting any interference with the domestic institution of slavery without the consent of all the States, the asp­rant Ohio peacemaker, Corwin, ignored parliamentary procedure by introducing a substitute amendment. As suggested by the Republican Congressman, the substitution read as follows: "No amendment shall be made to the Constitution which will authorize or give to Congress power to abolish or interfere, within any State, with the domestic institutions thereof, including that of persons held to labor or service by the laws of said State." 9

To silence the opposition, Corwin explained that intimate conversations with a majority of those friendly to the sixth resolution influenced him to make the substitution. He then argued that

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8Ibid.  
since it was not an amendment but a substitute supported by a ma­
majority, he saw no reason why it could not be adopted.\textsuperscript{10} Despite
the argument that it would make any future amendment on slavery
virtually impossible, it received House approval on February 28th
by a vote of 133 to 65; later the Senate voted 24 to 12 in favor
of it. In both houses the majority of those voting against its
adoption were Republicans.\textsuperscript{11}

With final confirmation by the Senate on March 4, 1861, the
Corwin Amendment was then numbered as the Thirteenth Amendment to
the Federal Constitution. If adopted by three-fourths of the states
the amendment would serve to perpetuate slavery in the United States
by entrenching it "securely in the organic law of the land" and by
"elevating the privileges of the slaveholders beyond that of the
owner of any other species of property."\textsuperscript{12} Since the Thirteenth
Amendment to the Constitution was adopted and signed in the waning
two hours of the lame-duck administration of President James Bu­
chanan, it became one of many responsibilities inherited by the in­
coming President Abraham Lincoln.\textsuperscript{13} He referred to the amendment
in his inaugural address on March 4th: "I understand", said Lin­
coln, "a proposed amendment to the Constitution - which amendment,

\textsuperscript{10}ibid.
\textsuperscript{11}ibid. p. 1285.
however, I have not seen - has passed Congress, to the effect that federal government shall never interfere with the domestic institutions of the States, including that of persons held to service. To avoid misconception of what I have said, I depart from my purpose not to speak of particular amendments so far as to say, that holding such a provision to now be implied constitutional law, I have no obligation to its being made express and irrevocable.\textsuperscript{14} As transmitted to the several states for official action by the new Secretary of State, William H. Seward, the new addition to the Constitution read:

\begin{quote}
Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, that the following article be proposed to the legislatures of the several States as an amendment to the Constitution of the United States, which when ratified by three-fourths of said legislature, shall be valid, to all intents and purposes, as part of the said Constitution, viz: Article XIII. No amendment shall be made to the Constitution which will authorize or give to Congress the power to abolish or interfere, within any State, with the domestic institutions thereof, including that of persons held to labor or service by the laws of said States.\textsuperscript{15}
\end{quote}

Although an Ohio Republican, Representative Thomas Corwin, had been the father of the proposed Thirteenth Amendment to the Constitution, his home state greeted it with mixed emotions. Since slavery

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was prohibited by the Ordinance of 1787, it had been non-existent in Ohio and other mid-western states. Thus, the anti-slavery clause of the Northwest Ordinance itself, "while a step toward the ultimate emancipation of the Negro in the United States," helped to produce conflicts and problems. From the beginning of its settlement, Ohio attracted diverse groups of people. Its anti-slavery policy attracted, for example, Quakers and New Englanders, who were morally opposed to the institution and therefore befriended Blacks. Then there were free Blacks along with manumitted and fugitive slaves who came to the region because of its promise of freedom; simultaneously, there migrated to Ohio individuals who were not only against slavery but opposed to the presence of the black man as well. Finally, Southern born whites seeking better economic opportunities helped to populate the state.

Geographically, a political, social and economic situation existed in Ohio that reflected the problems confronting the Union. For example, the Western Reserve of northern Ohio, whose inhabitants came largely from Massachusetts and which had a small black population, was the center of abolitionism in the state, while strong pro-slavery sentiments existed in central and southern Ohio where a large black population attempted to live among former residents of Virginia and Kentucky. Because of the problems and conflicts created by these

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17 Ibid.
various groups, the state's attitude came to be "prohibit slavery in Ohio but keep the Negro out; degrade the conditions of the Negro in Ohio and permit slavery to continue in the South."\(^{18}\)

In 1861, there had come into being in central Ohio an extreme pro-Southern Democratic newspaper, The Columbus Crisis; its editor was Samuel Medary. Perhaps it expressed best the attitudes of a majority of central and southern Ohioans. Because it strongly opposed the proposed constitutional amendment, the Crisis called its readers attention to Article IV Section III of the Federal Constitution which is often interpreted as a guarantee of slavery. It reads as follows: "No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."\(^{19}\) Since the Constitution recognized slavery, the Corwin amendment was superfluous. The Crisis questioned whether Congress could "abolish or interfere with the domestic institutions of any State." Because Congress had no such power, the Crisis concluded that it was the "officious intermeddling of northern abolitionists now, as in past time with the domestic institutions of the Southern States, which has brought affairs to their culminating point."\(^{20}\) Such criticisms, however, failed to prevent the State Legislature from discussing possible adoption of the Amendment.

\(^{18}\)Ibid., p. 16.  
\(^{19}\)Columbus Crisis, March 14, 1861.  
\(^{20}\)Ibid.
A Republican stronghold, Ohio's legislature was experiencing internal party strife. In the 1859 gubernatorial election Ohio Republicans had scored a complete triumph. But two years later they had become badly divided over state and national issues. Conservative Republicans often allied themselves with Democrats to veto or vote against bills proposed by the more radical Republicans. Simultaneously, this same group of conservatives refused to accept the more extreme Democratic measures. The impending crisis, however, had become so critical that members of the Ohio General Assembly attempted to bridge the increasingly widening gap between the North and South. Several peace resolutions were introduced in both houses, and the general feeling was that the times called for placing the Union above party politics. These resolutions, remarked one concerned Representative, Edwin Parrott, "doubtless contain some expressions not equally palatable to all of us, and fail to reflect nice shades of differences. But this we must endure. For instance the majority upon this floor is of variant politics from the federal administration," and he went on to say that the "times demand that we should rise into an atmosphere too rare and too pure for party life." Because in a state such as Ohio the apparent price of national unity was a policy that was at once pro-Union and pro-slavery, the legislators managed to lay aside their differences, thereby adopting unanimously the following resolutions:

21Speech of Edwin A. Parrott from Montgomery County, Columbus Statesman, January 15, 1861.
1. The people of Ohio believe that the preservation of the government is essential to the peace, prosperity and safety of the American people.

2. The general government cannot permit the secession of any state without violating the bond and compact of the Union.

3. The power of the national government must be maintained and the laws of Congress enforced in the states and territories until repeal by Congress or until they are declared unconstitutional. All attempts by state authority to nullify the Constitution and laws of Congress or resist their execution are destructive of the wisest government in the world.

4. The people of Ohio are opposed to meddling with the internal affairs of other states.

5. The people of Ohio will fulfill in good faith all their obligations under the Constitution of the United States and demand the same of every state in the Union.

6. It is incumbent upon any states having enactments on their statute books conflicting with or rendering less efficient the Constitution or laws of the United States to repeal them.

7. All Union-loving citizens who have labored to withhold their states from secession are entitled to the gratitude of the whole American people.

8. The entire power and resources of Ohio are pledged for the maintenance, under strict subordination to the civil authority, of the Constitution and laws of the general government, by whomsoever administered.
9. Copies of the resolutions should be sent to the President, the two houses of Congress and the governors of all the States.22

Obviously, Ohio was moving in a main current of northern opinion, because personal liberty laws were removed from statute books throughout the North before January ended.23

This apparent triumph consequently caused the Ohio legislature on March 20th to submit a joint resolution to Congress to "call a convention for proposing amendments to the Constitution of the United States, pursuant to the fifth article thereof."24 Republican Governor William Dennison was then instructed to transmit the resolution to President Lincoln and Congress. It should be observed that the March call by the Ohio General Assembly for a national constitutional convention came shortly after the Thirteenth Amendment to the Constitution was submitted to the several states for ratification.

Though Ohio had proposed a national constitutional convention to consider amendments, she began to debate the proposed Thirteenth Amendment in her legislature. The discussions were opened by Senate Judiciary Committee member R.E. Harrison of Madison county, who moved for ratification of the Seward-Corwin Amendment.25 But, Western Re­servist James A. Garfield immediately objected to what he considered an unusual procedure. He based his argument on the amending process

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25Columbus State Journal, April 18, 1861.
of Article V of the Constitution: "The Congress, whenever two-thirds of the several States, shall call a Convention for proposing Amendments, which, in either case, shall be valid to all intents and Purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by Conventions in three-fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress." He argued that since the General Assembly had proposed a national convention, it would be inconsistent to adopt the amendment through the legislature. He believed that the General Assembly should do nothing that would jeopardize the calling of a national convention.

Representing the northwestern counties of Crawford and Wyandot, Senator J.D. Parish opposed both a national convention and the amendment. A motion to refer the amendment to a select committee by a central Ohioan, Charles W. Potwin, failed by a vote of 17 yeas to 18 nays. Another argument for adoption was advanced by Senator T.B. Fisher of Logan county. Regardless of the mode of amending the Constitution, he said, the amendment represented a consensus of all parties in the North. Either adopt it, declared the Senator, or "acknowledge that heretofore we have not acted in good faith." One upper Ohio lawmaker believed if any constitutional compromise were adopted it would be to the advantage of the South.

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26 Ibid. Garfield represented the 11th District, consisting of the northern counties of Summit and Portage.

27 Ibid. Potwin had been elected by the voters of District 15, Muskingum and Perry counties.

28 Ibid. He also served the constituents of Union, Marion and Hardin counties.
and once, that section had tasted the "nectar" of compromise it would demand further concessions. He then questioned whether the South, presently at war, would even consider a compromise, and he therefore would vote against it as a thing "useless in the present crisis and bad as a matter of policy." Ohio's 5th District Senator, Jonathan Q. Smith, readily agreed with the remarks of his colleague. To adopt such an amendment would only cause the South to sneer at the Union because the existing crisis had made the resolution futile. Although he believed it had embodied public sentiments, under the present circumstances, he thought it unnecessary. Several expressed belief that it was not necessary to declare constitutional by an amendment what was already guaranteed by Article IV Section III of the Constitution. Finally, George Harsh of Carroll county exclaimed that he would vote for it to avoid the impression that Ohio favored war to abolish slavery in the States. This conflict, he remarked, was being fought to "redress wrong and insults to our flag and punish traitors; while we are willing to accord all the constitutional rights of our Southern brethren, we are still determined to preserve the American Union as it came from our fathers, one and indivisible." On April 17th the Senate adopted the amendment by a vote of 27 yeas and 8 nays.

29 ibid. Remarks represent those spoken by J. Donalson Cox of Trumbull and Mahoning counties in Ohio's 23rd District.
30 ibid.
31 ibid.
32 ibid.
Debates on the Corwin Amendment in the Ohio House of Representatives commenced on May 13, 1861. Arguments for and against it were similar to those advanced earlier in the Senate. Representative Alvin C. Voris of Summit county, for example, immediately opposed its adoption as degrading to the House and their constituents when the "very people whom it was intended to conciliate are in arms against us." While some of the solons considered the resolution unworthy of discussion because it infringed on their time and constituents, a Hamilton Representative, William Flagg, believed that its adoption would "conciliate and harmonize" the House and thereby allow for passage of pending war measures for appropriations and troops. Simultaneously, G.W. Andrews revealed that he would not only vote for war measures, but was prepared to enter the Army to help preserve the Union, flag and Constitution; he was not, however, prepared to fight to end the institution of slavery.

When Newton Devore of Brown county urged that it was the duty of the House to pass the amendment because the General Assembly had promised earlier not to interfere with the institution of the South, he was immediately challenged by Myron C. Hills. Since the Ohio Constitution could not be changed without a convention, argued the Medina Representative, why should the House vote to change the Consti-

\[\text{Ibid., May 13, 1861.}\]

\[\text{Ibid.}\]
stitution of the United States for all time? In support of his colleague Hill, Representative T.A. Plants began a lengthy argument against the Seward-Corwin Amendment. Under no foreseeable circumstances could he justify adoption of the amendment. One would have to be "hopelessly demented," he said, to suppose such an amendment would prevent secession in the South.35

He then refuted the South's contention that Republican rule signified the end of slavery. They know, as all the world knows, said Plant, that the "Republicans without exception hold and have ever held slavery to be a purely local institution, limited to the States which maintain it and over which Congress has no control whatever."36 Since the South had always been a strong advocate of the Constitution, he was thoroughly convinced that it knew the above facts; yet that section, he noted, had determined to destroy the nation. Plant then asked soberly: how could any sane individual labor under such false pretense that adoption of the amendment would restore the rebellious states to their proper place in the Union or stop other states from joining them?37 He further observed that not a single slave state had indicated it desired the adoption of the amendment or that its adoption would have the slightest impact on the behavior of those dissatisfied with the present Constitution. Thus, he believed that the South would set-

35Columbus Statesman, May 15, 1861.
36Ibid.
37Ibid.
tie for "nothing less than a radical change in the structure and workings of the Constitution." The proposed resolution was therefore unsatisfactory.

Plant then made reference to the call of the General Assembly for a constitutional convention and expressed his regrets it had not materialized. Afterwards he questioned the constitutional powers of the House to ratify Amendment Thirteen to the Constitution:

Can you not trust the people? Are we, who were not elected for any such purpose, and without the consent, and scarcely with the knowledge of the people to forestall the action of the people, themselves by passing an amendment to the Constitution which in terms proposes to bind their sovereign will forever, and prevent the people even by a unanimous vote, from undoing our hasty work? This may do in South Carolina but the sons of the free West are hardly yet prepared to bow their necks to the yoke. This amendment will either give to slavery sanction which the Constitution, as our fathers made, never gave, or it will not. If it does, its passage will be a stultification of sentiment of the people of the State, and if it does not, then the transparent sham is an insult to the South. In any event the passage of the resolution, under present circumstances, is ill-timed, uncalled for, improper.\textsuperscript{39}

Apparently, the speech had little impact on Plant's colleagues because at its conclusion the House voted immediately to adopt the amendment by a vote of 47 to 42. Because it had been passed by a majority of a quorum, Peter Hitchcock, who had been recently elected

\textsuperscript{38}Ibid. \textsuperscript{39}Ibid.
Speaker of the House, believed that the proposed amendment required a majority of the total membership of a legislature. He therefore thought that the Corwin Amendment did not represent the constitutional majority of the members elected as required by the Ohio Constitution to pass a law or an amendment. Simultaneously, he observed that the Ohio Constitution required a three-fifths vote of all elected to the General Assembly for each amendment to the state constitution. Because the Corwin Amendment proposed a fundamental change in the Constitution of the United States, he thought it, too, should be adopted by at least a majority of those elected.

Although he admitted readily that an amendment to the federal constitution could be ratified by three-fourths of the States Legislatures, he questioned what constituted the legislature of a State; by what vote could it give its consent to proposed changes; and should it be less than a majority of all its members elected?

A motion by the Speaker to record an absolute majority for the amendment was rejected by a vote of 42 yeas and 45 nays. The House then reminded Speaker Hitchcock that the amendment was not a law but a joint resolution and the Ohio Constitution provided for the passage of such resolution by a simple majority. Forced to accept the decision of his colleagues, Hitchcock declared the resolution adopted on May 13, 1861. Thereafter, the General Assembly forwarded

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40 Columbus Crisis, May 30, 1861.
41 Columbus State Journal, May 13, 1861. See also Ohio Constitution Article XVI, Section 1. 1861.
42 ibid.
a certified copy of the adopted resolution to Governor William Dennison with instruction to request President Lincoln to submit it to Congress when it again convened.\textsuperscript{43}

When the special session of Congress finally convened in July of that year, the fate of the original Thirteenth Amendment to the Constitution of the United States had long since been determined by the fact that war existed between the North and South. Nevertheless, the states of Ohio, Maryland and Illinois had deemed ratification of the amendment necessary. The border state of Maryland was the first to adopt it a few weeks after its passage in Congress, but never transmitted it to that body. Ohio's failure to do likewise may be attributed to the belief that reconciliation was now a lost cause; yet an Illinois constitutional convention ratified it at the height of the Civil War, March 22, 1862, and submitted it to Congress, but its adoption of the Corwin Amendment through a constitutional convention and not by the legislature as required by Congress made it invalid.\textsuperscript{44}

In the New England states it was automatically rejected, when no state acted upon it, and there is no evidence that the amendment was considered seriously in the Middle States or Deep South. The Corwin Amendment would have effected a fundamental constitutional change. Though Article IV Section III had been often interpreted as a guaran-

\textsuperscript{43} \textit{Laws of State of Ohio}, op. cit., p. 191.

\textsuperscript{44} \textit{Documentary History of the United States}, (Washington: 1894), p. 518.
tee of slavery, the Corwin Amendment was the first serious attempt to perpetuate the peculiar institution through the amending process. Throughout the controversy over slavery, amendments to the federal constitution were introduced in Congress to protect the institution but none ever materialized. 45

Unlike other pro-slavery amendments to the Constitution, the Corwin Amendment is distinguished by the relative success it realized in Congress and at least three states of the Union. But this conciliatory amendment to the Constitution immediately became a victim of the spirit of the times. Despite its failure to achieve ratification among the several states, and thereby preserve the institution of slavery, if not the Union, slavery continued to exist in the South for the duration of the war.

By 1861 the right of slavery to exist as a domestic and territorial institution had become an accepted axiom of American constitutional law. In part this was a result of the highly controversial Dred Scott decision of 1857. Speaking for a divided Court, Chief Justice Roger B. Taney ruled that Scott could not sue in a federal court of law on grounds that Blacks were not citizens of the United States within the meaning of the Constitution. The Chief Justice also ruled that slaves were property protected by the due process of law clause of the Fifth Amendment. He therefore concluded that "an act of Congress which deprives a citizen of the United States of his liberty or property, merely because he came himself or brought his property into a particular Territory of the United States, and who had committed no offence against the laws, could hardly be dignified with the name of due process of law."

Since the controversy which followed this decision is not within the scope of this work, it is only necessary to note that the case of Dred Scott immediately posed legal and political questions that haunted the North and South throughout the sectional crisis and the Civil War.

\[\text{Dred Scott vs. Sanford, 19 Howard 393; 400-454.}\]
Although slavery had received judicial sanction in 1857, there remained considerable doubt about its longevity. As the impending crisis became more apparent, further attempts were made between December, 1860 and April, 1861 to help preserve the institution and thereby defuse a very explosive situation. Despite the failure of the Crittenden Compromise, Peace Convention, Corwin Amendment and other similar compromises, the federal government continued to recognize slavery as a domestic institution of the States and pursued a policy of non-interference. Lincoln's recognition and acceptance of slavery as an established domestic institution was conveyed in his inaugural address. "Apprehension seems to exist," said the new Chief Executive, "among the people of the Southern States, that by the accession of a Republican Administration, their property, and their power, and personal security, are to be endangered."\(^2\) To win the confidence of the South and hopefully avoid a direct military confrontation, Lincoln quoted from an earlier speech he had made on the inviolable rights of the states and their institutions. "I have no purpose," he said, "directly or indirectly to interfere with the institution of slavery in the States where it exists. I believe I have no lawful right to do so, and I have no inclination to do so."\(^3\) Therefore, concluded President Lincoln, "in your hands, my dissatisfied fellow countrymen, and not in mine, is the momentous issue of civil war. The government will not assail you. You can have no con-


\(^3\)Ibid., p. 263.
flict without being yourselves the aggressors. You have no oath registered in Heaven to destroy the government, while I shall have the most solemn one to preserve, protect and defend it.\textsuperscript{4}

Though it is next to impossible to trace the origin of the policy of confiscation of private property, some historians believed that the government abandoned its commitment to the States on slavery after the passage of the so-called Sequestration Act of May 21, 1861, by the Confederacy.\textsuperscript{5} Its major objective was the sequestration of alien property (debts owed by the South to the Union); later a similar measure was adopted to confiscate real property. But neither of the acts applied to property of citizens in the border states which had not seceded or to those in the territories.\textsuperscript{6} And Southerners saw nothing unusual or unprecedented about the policy of confiscation, because they regarded the conflict with the North as an international war. Under the rule of international law a belligerent had the right to confiscate all private property of an enemy within its jurisdiction.\textsuperscript{7}

\textsuperscript{4}Ibid.


\textsuperscript{6}Statutes At Large Of The Provisional Government Of The Confederate States of America, 1861, p. 201.

Although they were provoked by the confiscatory measure of the Confederacy, both the public and military had often urged the government to take similar actions. Between April 1st and May 1st, for example, concerned citizens from Ohio and Indiana petitioned Congress to confiscate the property of those in rebellion against the Union and free their slaves. Constant pressure on the Administration resulted in the passage and adoption of the Confiscation Act of August 7, 1861. Only minor opposition was voiced against this rather limited legislation which provided for the seizure only of property used for insurrectionary purposes. Despite its restrictiveness it was interpreted loosely by one of Lincoln's leading generals. On August 30th General John C. Fremont, commander of the Department of the West, startled the nation by declaring martial law in Missouri. This unauthorized military proclamation was even more surprising because of its position on treason, property, and slaves. First, it provided that persons within the state found guilty of treason were to be shot and their property, real and personal, confiscated; next, it held that slaves of all traitors were to be liberated.

President Lincoln, who was filled with anxiety over the action of his general, reprimanded him through a letter, but was cautious not to censure. The Commander-in-Chief wrote that to execute those

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8House Journal, 37th Congress, 2nd Session, 1861, pp. 494; 567; 620; 624; 634.
9United States Statutes At Large, XII, p. 319.
guilty of treasonable acts would only provoke the Confederacy to retaliate. Fremont was therefore instructed to rescind his previous order immediately. Lincoln also advised his general that he thought it most dangerous to confiscate property and liberate slaves of traitorous owners. This, he commented, would help to turn friendly Southerners against the Union. He then suggested that Fremont modify his proclamation according to the first and fourth sections of the recently approved act of August 6th.\textsuperscript{11} 

In his reply to the President, General Fremont adopted a position of defiance. His decision, he replied, was made without consultation or advice from anyone and was based solely on what he had judged best for the nation. If, however, it was a "false judgment," he was willing to receive whatever amount of censure the President thought necessary.\textsuperscript{12} The general then informed Lincoln that if, "upon reflection, your better judgment still decides that I am wrong in the article respecting the liberation of slaves, I have to ask that you will openly direct me to make the correction. The implied censure will be received as a soldier always should the reprimand of his chief."\textsuperscript{13} To retract his own decision, Fremont believed, was like confessing that he thought it was wrong to liberate the slaves. After revoking the Fremont proclamation, Lincoln concluded that his gen-

\textsuperscript{11}Ibid.
\textsuperscript{12}Ibid., p. 419.
\textsuperscript{13}Ibid.
eral's defiance was politically motivated and "not within the range of military law or necessity." The continued insubordination of Fremont led to his dismissal a month later. Shortly thereafter the President was forced to void the unauthorized military declaration by General David Hunter which had given freedom to slaves in Georgia, South Carolina and Florida.

Nevertheless, the attempted incidents of military emancipation precipitated an acrimonious discussion over the status of slavery during the rebellion. Dissatisfied with the scope of the first confiscation act and the continuous dialogue over the future of slavery, Lyman Trumbull of Illinois, a noted foe of the institution, informed his Senate colleagues on December 2, 1861, that he intended to introduce a bill to confiscate the property of rebels and free those persons held in bondage. Several days later the newly appointed Secretary of Treasury and former Ohio Senator, Salmon P. Chase, presented to Congress an 1861 fiscal report and immediately endorsed the principle of confiscation as necessary to help finance the war. To help justify this policy he charged that many proprietors in the loyal states were actually guilty in the attempt to destroy the Union and were also responsible for all the "calamities" now being endured. Their property, too, Chase remarked, should be justly forfeited to the people to help satisfy claims emanating

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14 Ibid., p. 421.
16 Report Of The Secretary Of Treasury On The State Of The Finances, 1860-61, p. 12.
from the conflict. Persons held in involuntary servitude, he con-
tinued, should be "liberated from their constraint, and made more
valuable in various employment, through voluntary and compensated
service, than if confiscated as subjects of property."\(^\text{17}\)

Trumbull's confiscation bill was designed to seize all property
that belonged to those engaged in the rebellion and to secure free-
dom for their slaves. That Congress had the power to pass such a
measure was never doubted by the Senator, who had recently been el-
ected Chairman of the powerful Senate Judiciary Committee. But he
refused to sanction the arguments that in "times of war or rebellion
the military is superior to the civil power" or that during such
times "necessity" was higher than the Constitution.\(^\text{18}\) He believed
instead that "as unpopular as the avowal may for the moment be among
the thoughtless the monstrous rebellion should be suppressed accord-
ing to law and no other way."\(^\text{19}\) Finally, he argued that the war was
being fought to maintain the Constitution, which it should not be
violated in any manner whatsoever, especially by those in defense of
it. How were its defenders any better than the rebels, he asked, if
they too "set at naught the Constitution?" He then warned those who
stood ready to condone any act in order to suppress the rebellion
"not to sanction usurpations of power which may hereafter become pre-
cedents for the destruction of constitutional liberty."\(^\text{20}\)

\(^{17}\)Ibid., p. 13.
\(^{18}\)Congressional Globe, 37th Congress, 2nd Session, 1861, p. 18.
\(^{19}\)Ibid.
\(^{20}\)Ibid.
Typical of the arguments advanced by the Democratic opponents of confiscation were those challenging its constitutionality and expediency. But no argument was persuasive enough to block passage of the measure; and on July 17, 1862, Congress enacted a law to "suppress Insurrection, to punish Treason and Rebellion, to seize and confiscate the Property of Rebels, and for other Purposes."21 Before it could become law, the Confiscation Act of 1862 had to be signed by the President, who had earlier expressed only a mild interest in expansive confiscation and was very much opposed to that section which forfeited property beyond the life of a guilty individual.22 Therefore, he prepared to veto the legislation; but Congress hurriedly adopted an explanatory reservation to the new act: "Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, that the provisions of the third clause of the fifth section of 'an act to suppress Insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes', shall be construed as not to apply to any act or acts done prior to the passage thereof; nor to include any member of a State legislature, or judge of any State court, who has not in accepting support the constitution of the so-called 'Confederate States of America', nor shall any punishment or proceedings under said act be so construed as to work a forfeiture of the real estate of the

21United States At Large, XII, p. 589.
22Ibid., p. 590; Senate Journal 37th Congress, 2nd Session, 1862, pp. 872-874.
offender beyond his natural life." Consequently, Lincoln, regarding the resolutions as part of the law, signed the measure. Though the thirteen sections of the new law went far beyond their 1861 predecessor, they did not make the former inactive. Because both were to remain active throughout the war, the two acts existing side by side produced considerable confusion.

In addition to the emancipating provisions of the confiscation acts, was a measure by Representative James M. Ashley of Ohio to abolish slavery in the District of Columbia. A native of Toledo, the Pennsylvania born Ashley was first elected to Congress in 1858; he remained there until defeated in a bid for re-election in 1868. At a very early age he had developed a bitter hatred for slavery because of the cruel treatment of the Blacks on riverboats upon which he had worked. "I was so young," he recalled once, "when I enlisted in this liberating army that I can not fix the date."

That the Ohio solon was recognized as an ardent foe of the peculiar institution may be seen in the testimony of a fellow abolitionist, Frederick Douglass. The former slave described him as one who "felt and fully understood the flagrant sin of slavery," and crusaded against it with "poetic fervor, enriched by splendid quotations from Whittier's burning verse."  

23 United States Statutes At Large, XII, p. 627.
25 ibid., p. 3.
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That the resolution was a key in the abolitionist cause is attested to by the testimony of a fellow abolitionist, Frederick Douglass. The former slave described him as one who "felt and fully understood the flagrant sin of slavery," and crusaded against it with "poetic fervor, enriched by splendid quotations from Whittier's burning verse."  

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23United States Statutes At Large, XII, p. 627.
25Ibid., p. 3.
Though he had campaigned against slavery before his election to Congress, once in that body, Ashley became one of its most formidable adversaries; and his position as Chairman of the Committee on Territories gave him an excellent opportunity to fight the expansion of slavery. Shortly after the inauguration of Abraham Lincoln, Ashley co-sponsored a bill by John Hutchins of Ohio in the House which read that slavery, or involuntary servitude, should cease in the District of Columbia from and after the passage of this act. Immediately the bill was referred to the Committee on the District of Columbia whose Chairman was Roscoe Conkling of New York. Considerable excitement and indignation existed within the committee over the proposed resolution, and its pro-slavery members entertained "undisguised disgust" for the Ohio Republican. While the bill was under consideration, Secretary Chase urged his fellow Ohioan to substitute for the original measure a bill which would compensate the "legal slave owners by paying them a ransom which should not exceed three hundred dollars a head for each slave." Without hesitation, Chase added that the President was seriously entertaining a plan to compensate the border states as an incentive to emancipate their slaves. Undoubtedly, the Secretary had been instructed by Lincoln to approach Ashley because earlier the President had endorsed a similar plan.

26 Ibid., p. 702.
27 Ibid.
28 Ibid.
Following his conversation with Chase, Ashley was summoned by Lincoln, who also urged him to support a bill to initiate compensatory emancipation. With the support of representatives from both Houses, a one million dollar appropriation bill was finally agreed upon whereby loyal owners were to receive not more than three hundred dollars for each slave. Personally, Ashley disagreed with Lincoln and his border state policy and was very much against the appropriation bill; but he was "unwilling" to defy the President, especially since Lincoln had the support of the influential Chase and a large majority of Congressmen. Thus, on April 11, 1862, slavery was abolished by Congress in the District of Columbia with compensation to the slave lords; but a later Congressional act in June abolished slavery in the Territories without compensating the owners. A close analysis of these measures reveals that through its legislative powers Congress had virtually repudiated the doctrine of the Supreme Court in the Dred Scott decision.

Congressional emancipation, however, generated considerable opposition in the Midwest which was led by the state of Ohio. Influenced by the radical conservatism of Representatives Clement L. Vallandigham of Dayton and Samuel S. Cox, of Columbus, the Ohio Democratic coalition was strongly against the emancipating activities of Congress. One of the main reasons for this opposition toward abolition was their hostility to New England influence. Ohio Democrats had often attributed the abolition movement to the interference

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30Arnett, Speeches, (Philadelphia, 1894), p. 703.
of New England with the domestic institution of the South. They also lived with the constant fear that New England wished to monopolize Midwestern economy; simultaneously they exhibited hostility to Puritan domination in religion, morals, literature and politics. Those to whom the views of the Democrats most appealed were three ethnic groups within Ohio's diversified population.

First there were the Irish-Americans who were quick to support the Democratic opposition because they feared that emancipation would create a surplus of cheap black labor which would engulf the industrial cities and thereby lower the standards of living. Next were the Germans who generally opposed abolition and harbored lasting enmity for New England because of its role in the Know Nothing movement of the 1850's which was anti-Catholic and favored prohibition. Finally, there were the Southern emigrants who had brought with them an innate prejudice against Blacks and who inflated their egos with the knowledge that they were socially and economically above Ohio's black population. These three groups contributed immensely to the strength of the Democratic coalition within the state; and on the national level the Ohio Democrats allied themselves with other Northern Democratic conservatives and border state Congressmen.

31 Congressional Globe, 36th Congress, 1st Session, 1860, Appendix 43.
Typical of Ohio opposition in Congress was the elaborate speech by Cox on June 6, 1862. Cox charged that Congress in adopting the confiscation acts and compensatory measure had broken the pledge of the Crittenden resolution of July 22, 1861, which stated that war would not be waged against the domestic institutions of the states.\(^{33}\) These measures, he added, also contravened articles five (due process of law) and six (right to ordinary trial process) of the Constitution. The war was not being fought over slavery but to preserve the Union and Constitution; and since slavery was not the cause of the conflict, but the occasion, he found the tendency of Congress to free the slaves and impose the Blacks in "hordes" upon the Northwest most disturbing.\(^{34}\)

Emancipation would create an exodus of Blacks into Ohio and the Northwestern states. This would add to Ohio's white population a class of people that was "vicious, indolent and improvident." Such an increase to Ohio's present 36,225 Blacks would be "dangerous, degrading and unjust" to the Whites of Ohio.\(^{35}\) Cox then expanded upon the theme of vice and immorality among Blacks in the state by quoting certain excerpts from leading newspapers. Of interest is the comment of the Greene County Xenia News:

> There are about one hundred negroes in Greene county who are always out of employment. A part of these are those who have lately been freed by their masters, and furnished with bonus, on which they are now gentlemanly loafing. Our


\(^{34}\)Ibid., p. 243.

\(^{35}\)Ibid., pp. 244-245.
jail is continually filled with negroes committed for petty offences, such as arrays, petty larceny, drunkenness, assault and battery, for whose prosecution and imprisonment the town of Xenia has to pay about five hundred dollars per annum. And to such persons going to jail is rather a pleasure than a disgrace. They are better fed and lodged there than when vagabondizing round our streets.

We have seen negro prostitutes flaunting down Main street, three or four abreast, sweeping all before them indiscriminately. We have seen ladies of respectability running upon cellar doors, and even into gutters, to avoid being run over by these impudent hussies. 36

Another comment of interest is the statement of an Ohio state Senator:

The black settlement of Brown county was made in 1819, the original number located there being four hundred and twenty, for whom about two thousand acres of land were procured. From the commencement there has been no improvement in their morals or habits. Idleness and vice are the prevailing concomitants. The cost of criminal prosecutions has been very large in proportion to the number of inhabitants and keeps up a proportionate average with their increase. In the vicinity of this settlement there is not a family within two miles who are not kept in constant dread of depredations or injury of some sort. Everything val-

36 Ibid., p. 246. Several miles Northeast of Xenia was the black college community of Wilberforce University which had been founded in 1856 by the Methodist Episcopal Church to help educate the freedmen and former slaves, many of whom were born of mixed parents.
uable that can be removed is stolen. They are absolutely compelled to confine themselves to what is merely necessary to support life. For anything beyond from hand to mouth must inevitably fall a prey to the lurking vagrants, who fare far worse than a gang of Gypsies, are hovering around seeking literally what they may devour. And this state of things is not confined to any section alone; it extends in a greater or less degree wherever this portion of the population is permanently located.  

Such evidence thoroughly convinced Cox and his Democratic colleagues that continued emancipation would demoralize Ohio by increasing the crime rate, lowering the standards of living and contributing to miscegenation and amalgamation of the two races.

Although the state legislature had adopted in 1804 the "black laws" which restricted the movement of Blacks already present and was also designed to discourage further migration of Blacks into the state, it was concluded by the Ohio Congressmen that the existing policy of Congress would send into Ohio over half of the slaves in Kentucky and Virginia and more than one-fourth of those in bondage south of these two states.  

"Negrophobia" in Ohio was intensified during the 1862 July riots in Toledo and Cincinnati. The riot in Toledo involved the employment of cheap black labor after Irish dock workers had struck for higher wages; houses were destroyed in the black quarters of the city and several workers were injured.  

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37 Ibid.
38 Ibid., pp. 246-247.
39 Klement, loc. cit., p. 176.
more serious disturbance in Cincinnati involved similar issues. To avoid making concession to their Irish deck hands for an increase in salary, the owners hired black laborers. This move so angered the Irishmen that they violently attacked the black workers and burned that section of the city known as "Shantytown," a black slum area; both riots contributed substantially to the fear that freedom for those then in bondage was a threat to the economic security of whites in industrial Northern cities. The continuous growth of Ohio's "Negrophobia" was compounded by the September 22nd announcement by Lincoln to free all slaves belonging to residents within those states still in rebellion against the Union, on January 1, 1863.

That the measure was to become effective only if the Confederacy persisted in its hostilities had very little impact on the opposition. Instead the President's preliminary proclamation immediately became rich propaganda for the Copperhead movement in Ohio and other states. Opposed to the war, this movement was composed of mainly dissident Northern Democrats. In Ohio the movement had gained considerable momentum under the radical leadership of Vallandigham; and the fruits of its labor were reflected in the 1862 October elections. Throughout the state during the campaign the battle cry of those against the war and emancipation became: "The Con-

\[40\text{ibid.}
\[41\text{Basler, Works of Abraham Lincoln, VI, (New Brunswick, 1953), pp. 28-30.}
stitution as it is, the Union as it was, and the Negroes where they are." That the Union party in Ohio anticipated the worst in the elections may be seen in the words of H.S. Bundy, a Union candidate: "The President's proclamation has come just in the nick of time to save the country perhaps, while from present appearances it will defeat me and every other Union candidate for Congress along the border. The Democrats of the district take a position against the proclamation, including a majority of last year's Union Democrats, and unless matters improve, I will be defeated." But matters did not improve and the Union party experienced a severe defeat. The loss suffered by the party was due to a lack of faith in the Lincoln Administration, to Congressional emancipation, military defeats, arbitrary arrests and feelings against black immigration. Despite the triumphant victory by the Copperheads at the polls, their leader, Vallandigham, lost his bid for re-election in the Dayton district to General Robert C. Schenck, a Republican. Nevertheless, the star of the Copperheads was in the ascendency and would be a political force to reckon with in future Ohio elections.

When the Confederacy failed to yield to the September executive ultimatum, Lincoln issued his controversial emancipation procla-

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But the Emancipation Proclamation of January 1, 1863, created more problems than it actually solved. One such problem facing the Administration was the precarious status of the newly emancipated slaves. Though Lincoln's proclamation had declared free all slaves in certain designated portions of the rebellious South, slavery was very much alive in such border states as Delaware, Kentucky, Maryland and Missouri. In the absence of a national policy on slavery, these states continued to exercise jurisdiction over slaves and free Blacks within their boundaries.

In addition to the statutes governing slavery, each of the above states had laws prohibiting immigration of liberated Blacks and a policy imposing disabilities on the freedmen within the state. The legality of the proclamation also perplexed the Government. Except as a war measure the edict of freedom had no constitutional justification. "I think," said Lincoln, "the Constitution invests its Commander-in-Chief with the law of war in time of war and I suppose I have a right to take any measure which may best subdue the enemy." But the high court of Kentucky demonstrated in 1865 that it did not accept the war-power interpretation of the President in Commonwealth of Kentucky vs. Palmer. The issue involved the use of military power by General John M. Palmer to free some 65,000 slaves in Kentucky. Although over 165,000 bondsmen had been emancipated for their service as Federal soldiers or because they...
had belonged to rebels, the state Supreme Court ruled unconstitutional the authority of the military to abolish slavery in Kentucky. Only after the adoption of the Thirteenth Amendment was this issue resolved.\textsuperscript{47}

In their efforts to rescue the Administration, Republican politicians flooded Congress with amendments to abolish the institution of slavery. One such proposal was that introduced by Ohio Congressman Ashley on December 14, 1863: "Slavery is hereby forever prohibited in all the States of the Union, and in all Territories now owned, or which may hereafter be acquired by the United States."\textsuperscript{48} Despite some Democratic opposition the several proposals to abolish slavery in the Union were referred to the House Judiciary Committee. This Committee consisted of five Republicans, three Democrats and a former Governor of Maryland, Francis Thomas, who was a strong supporter of the Administration. Among the Republicans on the Committee were such pronounced anti-slavery advocates as Chairman George Boutwell of Massachusetts, Thomas Williams of Pennsylvania, Frederick E. Woodbridge of Vermont and Daniel Morris of New York. Two of the three Democrats, George Bliss of Ohio, and Rufus King of Missouri, were "fully committed against the policy of emancipation; while the third, New York attorney Francis Kernan, disregarded his moral convictions and judgment on the

issue because of strong partisan associations and his warm rapport with the powerful Democratic Governor, Horatio Seymour.49

As approved by the Judiciary Committees of both Houses, the joint resolution to amend the Constitution read:

Section I. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been fully convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section II. Congress shall have power to enforce this article by appropriate legislation.50

It is of interest to note that the exact wording of this amendment was taken directly from two documents which had contributed significantly to the slavery controversy, the Northwest Ordinance of 1785 and the Wilmot Proviso of 1846. There was very little doubt in the Senate that the Thirteenth Amendment to the Constitution would receive the necessary two-thirds vote, because that body consisted of thirty-six Republicans, nine Democrats, and five Unionists. Therefore, it is sufficient to observe that friends of the institution of slavery advanced arguments against the proposed amendment reminiscent of the early days of the slavery controversy. When the vote was finally taken on April 8th, two Democrats, Reverdy Johnson of Maryland and James W. Nesmith of Oregon, joined the Republicans to record for the passage of the Thirteenth Amendment.51 In the House, however,

50 Congressional Globe, 38th Congress, 1st Session, 1864, p. 1313.
51 Ibid., Ohio's Republican Senators Benjamin Wade and John Sherman supported and voted for the amendment but made no public speeches for its adoption.
partisan politics was to delay successful debate and adoption of Ashley's proposed abolition amendment until January, 1865.
A strictly partisan discussion on whether to adopt or reject the Thirteenth Amendment to the Constitution began on May 31, 1864, in the House of Representatives. Its Democratic members called for an immediate rejection of debate on the joint-resolution; but the motion was defeated by a substantial margin, 76 to 55. Daniel Morris, a Republican member of the Judiciary Committee then argued in favor of the extinction of slavery. The New York Representative declared emphatically that without the tyrannical rule of slavery each state in the Union could enjoy a republican form of government, and there would be no conflict. Slavery, said he, had "dispoiled" the African race and was now threatening the very existence of the nation. Since the latter was of greater value than the former, he urged his associates to destroy "this monster at once, root out this noxious plant, leave not a fiber to again sprout and choke the tree of liberty planted by our fathers."

After digressing somewhat on the right of the states to secede and their precarious status in the union, Morris compared secession

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to a ship's mutiny. He noted that those captured and found guilty of mutiny had forfeited whatever privileges they once enjoyed. They were still citizens but had no rights. The South, he continued, was in a similar paradoxical situation; it was neither in nor out of the Union and yet it was both. Because of the suspended status of the southern states, he believed that they should have no voice in the enactment of laws or in amending the Constitution until they had been duly punished for their treasonable acts against the federal government. Significantly, this position was later adopted by the "Radical" Republicans during their battle with the Executive over reconstructing the South. Morris therefore did not think his proposal was too severe for the South; instead he thought of it as an act of charity. While they suffered the consequences, he added, perhaps they could reflect on the following: "The thorns which I have reaped are of the tree I planted; they have torn me, and I bleed; I should have known what fruit would spring from such a seed."

During the evening session of the House debate, Anson Herrick of New York refuted the argument of his colleague by contending that the pending resolution was another ill-devised and malicious measure of the Republicans which was designed to perpetuate disunion not peace. The issue of abolition, he believed, involved more than just emancipation of slaves; a more significant matter was the right of the states to control their domestic institutions.

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2 Ibid., p. 2615.
He observed that in the free states certain laws governed and regulated the status of various classes of people. The mid-west, for example, had laws which prohibited immigration of the Blacks either as freedmen or slaves. Yet the federal government persisted in its efforts to determine the destiny of Blacks in the South. Because the Administration pursued such unconstitutional schemes, it was the objective of the Democratic party to resist the President and his party so that each state could have the right to determine for itself the status of the black race within its midst; and they should also have the right to determine when to abolish slavery or, if they so desired, not to abolish it at all. Since the Constitution guaranteed these rights and they had been fully exercised by the North at its own discretion, the same principle should be applicable to the South. In support of the amendment, however, another New Yorker, Republican Orlando Kellogg, held that "no expense, no sacrifice, no allure-ment must deter or divest us, but rising with the emergency, and equal to every fate, meet and master every obstacle, that stands in the way of the complete supremacy of the Constitution and the laws." At the conclusion of his speech the House agreed to adjourn.

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3 Ibid., p. 2616.
4 Ibid.
5 Ibid., p. 2620.
Several weeks later, on June 14th, Democratic Representative John L. Pruyn resumed discussion on Amendment Thirteen with a fierce attack on its adoption. Never before in the history of the Union, he charged, had there been an attempt to make a change in the Constitution which would interfere with the rights reserved to the States. Ironically, he commented, the proposed change would occur at a time when a majority of those most affected were absent from Congress. He also thought that the Administration was too devoted to the question of social reform within the domestic institutions of the South and had thus neglected those steps necessary to suppress the existing rebellion. After a brief historical statement on the amendments which had been adopted to the Constitution, Pruyn noted that only twelve amendments had been adopted since 1787; the first ten, commonly known as the Bill of Rights were adopted almost simultaneously with the Constitution. A few years later the several states adopted the Eleventh and Twelfth Amendments. The scope of each amendment, said he, was in substance declaratory and restrictive, or regulated the exercise of powers already granted; and under no circumstances whatsoever did they enlarge the powers of the federal government.

Since the reserved powers of the Tenth Amendment guaranteed the right of each state to regulate its internal affairs, the Democrats questioned if three fourths of the states, through the amend-
ing process, could "overturn the institutions, subvert the authority, and change the condition of the other States?" If the states agreed to such action, they should have surrendered all their sovereignty to the general government when it was created and the amendment which reserved their rights was meaningless. The reserved rights were a guarantee that no states could force an entire change in the domestic policy and institutions of their sister states. Therefore "to construe the Constitution as authorizing three-fourths of the States to impose upon the residue terms and conditions of Union not agreed upon or assented to by them, would be a wide departure from its spirit and monstrous usurpation of power." 

Implicit throughout the Democrats' attack on the Thirteenth Amendment to the Constitution was the argument that while the nation was at war, the proposed resolution was "irreconcilable with expediency" and involved the tyrannical destruction of the sanctity of private property under the guise of a legitimate exercise of constitutional government. In theory the origin of the resolution was embedded in despotism and the concept of feudal powers that governments were omnipotent; and they believed that such an impious dogma of the past should be repudiated as a usurpation of individual rights. In addition to the proposed alteration in the Constitution, which was itself revolutionary, they charged that its consequences would in-

8 Ibid.  
9 Ibid.  
10 Ibid.
volve the extermination of white southerners and the emergence of
a black system of government. They declared that Article Ten pre-
vented any invasion of the right of states to determine their own
domestic affairs, especially slavery.

They also noted that an identical proposition endorsed in the
1860 Chicago platform by the Republicans had asserted that "the
maintenance inviolate of the rights of the States, and especially
the right of each State to order and control its own domestic in-
stitutions according to its own judgment exclusively, is essential
to that balance of power on which the perfection and endurance of
our political faith depend." 11

From the Republican side of the House was advanced the argu-
ment that it was fallacious for the Democrats to entertain such
thoughts that whatever action taken by Congress on the pending con-
stitutional measure was conclusive. They reminded the opponents
of the resolution that Article V prohibited Congress from adopting
such an amendment by requiring the legislatures of three-fourths
of the states to ratify any amendment to the Constitution. A Cali-
ifornia Republican, William Higby, contended that even Article V
was limited by one of its own provisions which stated that "no amend-
ment which may be made prior to the year 1808 shall in any manner af-
flect the first and fourth clauses in the ninth section of the first
article." Thereafter the Constitution, said he, was completely "si-
lent with reference to all other positions, including even that which
provides that fugitives from labor shall be returned to service." 12

11 Ibid.
12 Ibid., p. 2943.
On the issue of slavery the Republicans were quick to label it as the major cause of the existing rebellion. They claimed the peculiar institution was a moral, social and political evil. It was attacked as being more barbarous than any despotic institution that had ever existed and was seen as a breeding ground of every imaginable form of incest, exceeding the sinfulness of polygamy. Its abolition was necessary to eliminate effectively a national disease. Compromise was decided as being meaningless because as long as slavery continued to exist, another civil war would be inevitable.

Supporters of the amendment further argued that the Constitutional Fathers had not intended for slavery to continue for a long period. They were men who had fought during the American Revolution for human rights and earnestly believed that slavery was contrary to those rights. To support this argument, John Fransworth of Michigan quoted the grave concern of Virginia's astute statesman, Thomas Jefferson: "In the very first session held under the republican Government the assembly (of Virginia) passed a law for the perpetual prohibition of the importation of slaves. This will in some measure stop the increase of this great political and moral evil, while the minds of our citizens may be ripening for a Complete Emancipation of Human Nature." The opposition of the Democrats to emancipation, he contended, stemmed from their fear of 'negro equality and miscegenation.' Since they were helping to defend the

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13 Ibid., p. 2948; p. 2949.
14 Ibid., p. 2978.
Union against the hostility of the South and demonstrating their gallantry as soldiers, he saw no reason why Blacks should not be recognized as men. Answering the charge that Republicans were miscegenists, the Michigan solon replied he knew of no member within his party who favored it or was against legislation to prevent miscegenation.\footnote{15}{Ibid., p. 2579.}

In a renewed attempt to prevent Congress from abolishing slavery through a constitutional amendment, the Democrats were led by a coalition of mid-western and border state representatives. Robert Mallory of Kentucky, for example, denied emphatically that slavery was incompatible with peace. It still existed in Kentucky, Missouri and Maryland, states that had not rebelled against the general government. He therefore saw no reason why the Republicans continued to insist that abolition of slavery was necessary to preserve the Union. He further stated that the Republicans had solidified a once divided South through their policy of confiscation, emancipation, the freedmen's bureau bill and finally the proposed amendment to the Constitution.\footnote{16}{Ibid.}

Even President Lincoln, said the Democrats, had doubted the power of Congress to adopt such an amendment. To support this statement they quoted excerpts of a letter written by the President to A.G. Hodges of Kentucky in which he stated if the proposed amendment were indispensable to save the nation, it was lawful for him to violate the Constitution.\footnote{17}{Ibid., p. 2983.} How could one, it was asked, who had solemnly...
vowed to protect and defend the Constitution violate it so readily? Although all of the Ohio Democrats opposed the measure, only George Pendleton, who later became vice-Presidential candidate in 1864, attacked the resolution during the first session of the House debate. While admitting he would not vote for the amendment, Pendleton attempted to substitute that portion which submitted it to the legislatures for ratification. He wanted it ratified instead by constitutional conventions of three-fourths of the states. He hoped that those elected to the conventions would refuse to violate the organic law of a government which had been beneficial to over thirty million people.

Each time the Constitution had been changed during the last seventy-five years none of the three amendments enlarged the delegated powers of the federal government or reduced those reserved to the several states. He pointed out that the changes made, except the Twelfth Amendment which dealt with the election of President and Vice-President, either guaranteed the individual liberties of citizens or declared the inviolability of those rights reserved to the states. He also objected to the proposed measure because the time was not auspicious. War, said Pendleton, was a time for inventing not for perfecting; a time which required the "self-possession, the deliberation, the freedom for excitement which belong to times of peace to lay securely and justly and wisely the foundations of a permanent free Government."
The Ohio Congressman then questioned how nineteen states could ratify any amendment to the Constitution when it required twenty-seven. Even if the border states would agree to ratify it, which he seriously doubted, this would still fall short of the necessary three-fourth requirement. Even the admission of the western states of Colorado, Montana and Nevada would only increase the number necessary for ratification. In answer to the rumor that sixteen states might be carved out of the western territory, Pendleton held that the creation of these states merely to ratify a rather dubious amendment or to expect the states of Louisiana and Tennessee which were under military control to cast their votes for it was a ridiculous farce. 21 Although Pendleton had no quarrel with the desired objective of the amendment, like many of his Democratic colleagues, he believed it involved more than the issue of slavery. Even if the Thirteenth Amendment to the Constitution had the required support of three-fourths of the states and was within its constitutional sphere, opposition would still exist because it was a dangerous step toward consolidation and eventually despotism, he declared. 22 The Union, he concluded, had already gone too far toward consolidation. The Executive had assumed the legislative role of Congress; individual liberties were no longer secured; attempts were being made to violate the sacred principles of the Constitution; and the very cornerstone of freedom; states sovereignty; was being trampled under. 23

21 ibid.
22 ibid., p. 2993.
23 ibid., p. 2994.
Finally when the votes were taken to adopt the amendment, the members of the House decided in the negative, 93 yeas, 65 nays and 23 not voting. Republican James Ashley, sponsor of the bill, was so disappointed over its rejection that he lamented:

Educated in the political school of Jefferson, I was absolutely amazed at the solid Democratic vote against the amendment on the 15th of June. To me it looked as if the golden hour had come, when the Democratic party could, without apology, and without regret, emancipate itself from the fatal dogmas of Calhoun, and reaffirm the doctrines of Jefferson. It had always seemed to me that the great men in the Democratic party had shown a broader spirit in favor of human liberty than their political opponents, and until the domination of Mr. Calhoun and his States-right disciples, this was undoubtedly true. On the Death of General Harrison in 1841, and after John Tyler became the acting President, I date the organized conspiracy of the slave barons, which culminated in the Rebellion.24

In a last minute effort to retrieve the Thirteenth Amendment to the Constitution from certain congressional death, Ashley used a rather obscure House rule which allowed a member to change his previous vote on a defeated measure. He therefore changed his vote from yes to no so that the proposed amendment could be submitted during the next session of Congress for re-consideration. Before that could happen, however, he and the Republicans had to focus their attention on the forthcoming presidential election in November; and they strongly believed that a Republican victory would thus assure adoption of the Thirteenth Amendment to the Constitution.

CHAPTER FOUR

AMENDMENT THIRTEEN AND OHIO POLITICS OF 1864

Long before the House of Representatives defeated the constitutional measure to abolish slavery, the political situation in Ohio had undergone a dramatic change. Ohio's Copperheads had interpreted their 1862 victory as a repudiation of Lincoln's domestic and military policies. They therefore had hoped to duplicate their triumph in the forthcoming gubernatorial election of 1863. Although the federal government had made a formal commitment to emancipation as a military necessity, the cause of freedom had become stale-mated in Ohio and the Mid-West following the 1862 defeat.¹

In a recent and informative study of this crucial region during the Civil War, V. Jacque Voegeli is of the opinion that the victories by the Union at Gettysburg and Vicksburg respectively helped to create within this section ideal conditions toward "launching a popular crusade against slavery."² Inspired by these

²Ibid., p. 119.

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victories Midwestern Republicans immediately concluded that the expediency of the emancipation proclamation as a military measure had been proven on the battlefield, and they were now ready to accept it as a legitimate war measure. Voegeli concludes that:

Just as apprehensions of a black invasion had heightened the anti-Negro feelings, the decline of these anxieties reduced them to some degree. Just as defeat had intensified racism, victory now suppressed it somewhat. Hope of ultimate triumph and the growing sense of the righteousness of emancipation brought forth increasing toleration and good will for the enslaved race. The system of employing the freedmen on abandoned southern plantations or as military laborers weighed heavily in the scales, for its success helped to counteract doubts that the slaves were fit for freedom and enabled the friends of the Negro to show that colored people were able to live intelligently and productively as free people. The performance of Negro soldiers did much more to place the black race in a better light. Their conduct under fire on such fields as Port Hudson (May, 1863), Milliken's Bend (June, 1863), and Fort Wagner (July, 1863) earned the gratitude and respect of many midwesterners who had previously questioned their capabilities and hardened the resolve of those who had never doubted.\(^3\)

Despite this apparent change in midwestern attitude toward the black man, it would be wrong for anyone to conclude that Ohioans in general or midwesterners for that matter were willing to grant equality to Blacks. In fact the very thought of equality for black people in Ohio inspired the Democrats to use it as political propaganda in their attempt to repeat their 1862 performance in the el-

\(^{3}\)Ibid., p. 123.
ection which was to be held in the fall. After considerable dis-
cussion over the nomination of Clement Vallandigham, who was to
remain in Canada in exile throughout the campaign, as a peace
candidate for the office of governor, they attempted to unite be-
hind the issues of peace, reunion and restoration of civil liber-
ties which they felt had been destroyed by Lincoln's policy on
demonstrations against the war and the suspension of the writ of
habeas corpus. They also exploited the issues of emancipation,
immigration, employment of black soldiers, racial fears and preju-
dice. In Columbus, for example, Samuel Medary, editor of The Cri-
sis, published an editorial which eventually became the theme of the
Democrats' campaign. It depicted a group of young maidens scream-
ing "Father, save us from Negro Equality."

To fortify themselves against the political warfare of the
Democrats, the Union party selected as its gubernatorial candidate
a former Democrat, John Brough, who had earlier retired from politics.
Simultaneously, they took advantage of the military triumphs and
promised that the conflict would end shortly in favor of the Union.
Inevitably, the continued success of the military campaign provided
propaganda for the Unionists, who avoided the tarnished label of the
Republican party. Refusing to allow their opponents to make the
black man an issue of the campaign as they had done previously, the

4Columbus Crisis, September 16, 1863. Wood Gray, The Hidden
Civil War: The Story of the Copperhead, (New York: Viking Press,
1942, offers a very able account of activities of Vallandigham and
his followers).
Unionists assured the voters rather convincingly that they had little to fear about emancipation creating a black exodus in the state, or from the endowment of equality upon Blacks fighting to help preserve the Union. The Cincinnati Catholic Telegraph voiced the sentiments of most Ohloans toward equality for the black man when it editorialized: 'We desire to see them far apart; there ought to be no partnership between the two races. We have no desire to see them intermingled, neither working together nor even cultivating adjacent fields. The natural superiority of the race ought to be carefully preserved. This is impossible so long as slavery exists, because the poor white man is just as much, or to a great extent, in the power of the rich planter as the slave.'

When the voters of Ohio cast their ballots in October, they registered a resounding majority for Brough and the Union party. If one questioned whether or not the Unionists' victory was an absolute endorsement of emancipation by the Ohio electorate, the answer would have to be an uncategorical no. Although they had supported the Union party, a majority of the people were thoroughly convinced that only through a vigorous prosecution of the war could peace and restoration be achieved. Nevertheless, there existed

5Cincinnati Catholic Telegraph, July 15, 1863.
6For a complete account of how each Ohio county voted see George H. Porter, Ohio Politics During the Civil War Period, (New York: Columbia University, 1911), p. 183.; Sarah Rider, "Ohio and the Campaign of 1863," A. Thesis, Ohio State University, 1943.
7Porter, Ohio Politics During the Civil War Period, (New York, 1911), p. 184.
signs that many Ohioans were now ready to accept abolition as a consequence of military warfare. They doubted, however, the need for an amendment to abolish slavery since the Constitutional Fathers were "wise not to recognize no condition of man but that of freedom." The Constitution, reported the Cincinnati Gazette, was a product of a great majority who believed the evil institution of slavery was only a temporary force and refused to recognize its existence and formed a Constitution "wholly" at war with slavery.  

Significantly, the Gazette adopted the position that because slavery was not recognized by the Constitution, it was perfectly legal for the President or Congress to abolish it through a proclamation or declaration. Not all opponents of slavery, however, believed it could be abolished through an executive or congressional declaration. Their acceptance of the argument that the Constitution did recognize slavery induced them to support the Thirteenth Amendment to the Constitution abolishing slavery. One principal advocate of this amendatory theory was the Ashtabula Representative, Abner Kellogg. Shortly before Congress began debate on Amendment Thirteen to the Constitution; Kellogg on March 1, 1864, read the following preamble in the General Assembly:

Whereas, the declaration "that all men are created equal and are endowed by their creator with certain inalienable rights, among which are life, liberty and the pursuit of happiness, and to secure these rights all just gov-

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8 Cincinnati Daily Gazette, February 15, 1864.
9 Ibid
ernments are instituted among men
deriving their just power from the
consent of the governed," is as true
and self-evident now as when first
enunciated by the fathers, and foun-
ders of the republic; and,
Whereas, the Constitution of the United
States was ordained and established to
form a more perfect union, establish
justice, insure domestic tranquility,
provide for the common defense, pro-
mote the general welfare, and secure
the blessings of liberty to the people
of the United States," and
Whereas, slavery or involuntary serv­i-
tude, except as a punish­ment for crime,
is a violation of the inherent inalien-
able rights of man, a crime against jus-
tice and humanity, a disturber of the
Union and of domestic tranquility, a
hinderance to the common defense, a
spoiler of the public liberties, has
inaugurated civil war and is the cause
of our national calamities.

He then offered for adoption a joint resolution to request
Ohio Senators and Representatives in Congress to "use their influ-
ence and vote for the proposition now pending in Congress, to amend
the Constitution of the United States so that neither slavery nor
involuntary servitude, except as punishment for crime whereof the
party shall have been duly convicted, shall exist within the United
States or any place subject to their jurisdiction, and giving to
Congress power to enforce such prohibition by appropriate legisla-
tion."10

Following its introduction, the House moved to table the Kel-
logg Amendment until further discussion. Several days later some
of the House members introduced resolutions contending that the

Kellogg Amendment was unnecessary because the members of Congress were as knowledgeable on the subject of abolishing slavery as state Legislators. They offered instead an unsuccessful substitute resolution which read "We are in favor of the Constitution as it is and the Union as it was." Even the powerful Democratic Ohio Statesman somewhat agreed that slavery had been killed "several times" by presidential proclamation. "Time was," said the Statesman, "when the brains were out the man was dead." But if slavery were dead, the fanatics of abolition would be without a hobby and would "perish miserably."  

Despite the declaratory position taken by some of its members and the news media, debate on the joint-resolution began on March 12th with Kellogg strongly urging the adoption of his amendment. He spoke at length on the "blighting and mischievous effects of slavery" by comparing statistically the wealth and prosperity of the free states with that of the slave states. Those in general opposition to abolition charged that its advocates were quick in declaring the evils slavery had brought on the nation but neglected to tell of its achievements. Without reaching a vote on the resolution the House adjourned and resumed discussion on March 24th at which time a vote was taken to postpone its debate until the

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11 Ibid., p. 355.
12 Columbus Statesman, March 2, 1864.
13 Columbus State Journal, March 12, 1864.
14 Ibid.
second week in January, 1865. The resolution failed and the House passed the Kellogg Amendment by a vote of 63 to 17; later it received the approval of the Ohio Senate. Shortly thereafter the members of the United States Senate voted to adopt the Thirteenth Amendment to the Constitution.

Because ratification of the amendment by the House of Representatives was a matter of considerable uncertainty, the Ohio State Journal of Columbus accurately forecast that the House had "enough northern men with southern principles, enough dough-faces, cooperheads, to leave the matter of the adoption of any ordinance in behalf of human freedom in great doubt." Nonetheless, the Crisis called the endorsement by the General Assembly of the measure to abolish slavery the work of an "inexplicable body of miscegenarians." Immediately after the charge by the Crisis and Senate adoption of the Thirteenth Amendment, citizens of Shelby county petitioned the General Assembly through their Representative, W. Fielding, for legislation to prevent the migration of Blacks, "now liberated by very questionable means," into Ohio. Their opposition stemmed largely from the propaganda activities of the Crisis and other Copperhead news media that abolition of slavery would "Africanize" Ohio.

Meeting in Columbus in May to select delegates to the national convention in Baltimore, members at the Republican-Democratic coalition Union state convention pledged unanimously to support the renomination of Lincoln, his administrative policy toward suppressing

15Ohio House Journal, LX, 1864, p. 471.
16Columbus State Journal, April 6, 1864.
17Columbus Crisis, March 23, 1864.
the rebellion and to approve the pending amendment to the Constitution to make the "States of the Union all free and all Republican and therefore, forever one and indivisible." This position by the Unionists was directly opposed to the position taken earlier by the Democrats during their state convention on March 24th in Columbus. They were obviously thinking of the pending constitutional amendment when they adopted a resolution opposing any measure which would impair the constitutional rights of the states.

Meanwhile a national Republican convention was scheduled for June at Baltimore to adopt a platform for the forthcoming presidential race.

Since the entire preceding of that convention is beyond the scope of this work, it will suffice to observe that the convention's endorsement of the resolution to abolish slavery received a tremendous applause from the delegates, who stood and waved their hats jubilantly. As adopted by the convention the resolution read:

That as Slavery was the cause, and now constitutes the strength, of this Rebellion, and as it must be, always and everywhere, hostile to the principles of Republican Government, justice and the national safety demand its utter and complete extirpation from the soil of the Republic and that while we upheld and maintain the acts and proclamations by which the Government, in its own defense, we are in favor, further more, of such an amendment to the Constitution, to be made by the people in conformity

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18 The Ohio Repository of Canton, June 1, 1864; Columbus Daily Express, May 26, 1864.
19 Cleveland Herald, March 25, 1864.
with its provisions, as shall terminate and forever prohibit the existence of Slavery within the limits or the jurisdiction of the United States.20

Although the Republicans had not re-nominated the incumbent President by acclamation, he expressed gratitude and appreciation that the people had not deemed him unworthy to remain in his present position.21 In justification of his policy of emancipation and the pending amendment on universal abolition he remarked "when the people in revolt, with a hundred days of explicit notice that they could within those days resume their allegiance without the overthrow of their institutions, and that they could not resume it afterwards, elected to stand out, such amendment to the Constitution as is now proposed became a fitting and necessary conclusion to the final success of the Union cause.22 Similar sentiments were voiced by Lincoln's new vice-presidential mate, Andrew Johnson of Tennessee. Throughout his acceptance speech Johnson was highly critical of slavery as the real cause of the rebellion. In support of the Thirteenth Amendment he commented that the authority to free the slaves was found in the power to amend the federal Con-

stitution. Specifically, he said "this plan is effectual, and of no doubtful authority; and while it does not contravene the timely exercise of the war power by the President in his emancipation proclamation, it comes stamped with the authority of the people themselves, acting in accordance with the written rule of the supreme law of the land, and must, therefore, give more general satisfaction and quietude to the distracted public mind."\(^{23}\)

Ironically, while the Republicans were endorsing the Thirteenth Amendment to the Constitution, it was being defeated in the House of Representatives, whose large Democratic contingent had been chosen during the 1862 elections under the "depression of military failures."\(^{24}\) The defeat of the abolition measure in the House, however, failed to convince Ohio Democrats that the anti-slavery movement had been permanently checkmated. Previous remarks by Governor Brough and other Unionists, for example, were very much alive in their minds and were helping to convince them that the real objective of the rebellion was not to preserve the Union but to free the slaves. Speaking at a campaign rally at Marietta, the Union candidate for the office of Governor had stated that slavery was not recognized by the Constitution, and it was absolutely wrong to interpret that section on "fugitives labor" as a legal right to own slaves.\(^{25}\) He then predicted that

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\(^{25}\)The Cadiz Republican, June 24, 1863.
as far as the political character of slavery was concerned it had "perished with the sound of the first gun in Charleston harbor." 26 Slavery, he added, was "utterly and totally dead" and could never be revived. Haunted by the words of Brough and others, most Ohioans continued to remain dubious about the prosecution of the war. The events surrounding the Niagara peace conference seemed to vindicate their suspicion.

In an effort to secure peace Lincoln acquiesced to the demands of Horace Greeley, editor of the New York Tribune, and commissioned him to begin negotiations with James P. Holcombe, and C.C. Clay, Jr., who represented the Confederacy. Much of the discussion was conducted through correspondence between Greeley and the Southerners. 27 During the negotiations Lincoln sent a letter to Greeley which embraced as a prerequisite for peace the South's acceptance of the abolition of slavery. It read as follows:

To Whom It May Concern: Any proposition which embraces the restoration of peace, the integrity of the whole Union, and the abandonment of slavery, which comes by and with an authority that can control the armies now at war against the United States, will be received and considered by the Executive Government of the United States, and will be met by liberal terms, on other substantial and collateral points, and the bearer or bearers thereof shall have safe conduct both ways. 28

When the contents of this communication became known, most Democrats concluded that the abolition of slavery had been the real

26 ibid.
objective of the war from its inception. The furor which ensued resulted in an effort by Lincoln to recant the position he had previously taken. In an explanation to some close associates, he stated that the entire matter had placed him in a very false position. "To me," he wrote to Charles D. Robinson, "it seems plain that saying re-union and abandonment of slavery would be considered, if offered, is not saying that nothing else or less would be considered, if offered." He persisted, however, to defend emancipation as a military measure necessary to help save the Union. To re-institute slavery where it had been abolished would not only be morally wrong, he remarked, but it would lose to the Union the "invaluable services" of the Blacks.

Significantly, the hostile response by the public demonstrated that it was quite all right to argue that emancipation would help to terminate the war when the military was victorious; but it was commensurate with political suicide to declare during a period of gloom that under no circumstances would the hostilities end until slavery was abolished. One historian has described the situation during the summer of 1864 in the following manner:

Antislavery resolve faltered in late June, July, and August of 1864, as war fatigue and doubt again beset the Union. In these months Sherman's advance in Georgia appeared to be tortuously slow and indeci-

29Ibid., VII.
30Ibid.
sive; Grant seemed to be in a bloody
deadlock in Virginia; and General Jubal
Early's Confederates menaced Washington.
Underlining the depressing war news was
the administration's call for 500,000
volunteers with all shortages on quotas
to be filled by a draft in September.32

Because the military situation appeared so gloomy and the ob-
jectives of the war seemed to have shifted from restoration of the
Union to abolition, Ohio's Peace Democrats accelerated their op-
position to the Administration. On the Niagara incident the
Statesman editorialized that it should be apparent that even a
man of the "smallest modicum of brains" should be able to determine
for himself that the real object of the war was not to save the
Union but to destroy the constitutional liberties of all the states,
free or slave.33 Another prevailing opinion was that Lincoln had
jeopardized an excellent opportunity to secure peace when he issued
his ultimatum on the abolition of slavery.34

"Our people," reported the Crisis, "are not in favor of per-
petual wars, and when it is all made to turn on the negro as is
avowed in Lincoln's letter to whom it may concern, all hopes of
peace, negotiations and a Union of the States are at an end for the
next twenty years."35 If the President wanted to make abolition a
campaign issue he had the power to do so through a letter but he
had no power whatsoever under the Constitution, declared the Crisis.36

32 Ibid., p. 145.
33 Columbus Statesman, July 27, 1864.
34 Columbus Crisis, August 3, 1864.
35 Ibid.
36 Ibid.
In defense of the Administration the Cincinnati Gazette wrote: "Whether, if the Confederate Government should propose to stop the war, disband, and restore the Union as it was, on conditions acceptable to the President, he would insist on emancipation as a sine qua non, and would elect to continue the war to enforce that condition, is not a conclusion clearly deducible from his official declarations." It then reminded its subscribers that the emancipation proclamation of 1863 was still subject to review by the Supreme Court. Despite its support of the President, the Gazette expressed serious concern about his power to abolish slavery even as a military matter.

On this matter the Gazette observed that Lincoln had continuously refused to admit that Congress had the power to "prescribe that a confederate state had to abolish slavery as a condition" for peace. Significantly, the Gazette had expressed not only its uncertainty about presidential emancipation but had also focused its attention on the impending conflict between the executive and legislative branches over reconstruction of the South. The opinion of this Republican paper was that over such domestic matters Congress had all the power.

The Gazette believed that Congress had all the general power over slavery wherever it existed; "either as civil power or war power," but the people of each state had all the "local power over

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37 Cincinnati Daily Gazette, July 26, 1864.
38 Ibid.
slavery" that existed anywhere. Its conclusion was that "if it be denied that Congress can impose this condition on the people of each State, it will hardly be claimed that the President has power to impose this condition on all the States, through the Confederate Government, which we do not allow to have any legal power over one of them." Despite such strong defense by the Union press, Ohioans' dissatisfaction with the policy of Lincoln was manifested in part through the numerous peace meetings held across the state in late July and throughout the month of August. Resolutions adopted by these largely non-partisan gatherings were very similar in nature, expressing opposition to the war if its main objective was to free the Blacks, an immediate cease fire, and restoration of the Union.

The frustration of Ohio's war weary Democrats was also reflected in the peace plank of the national Democratic platform. Their success was due largely to the activities of Clement Vallandigham, who had returned on August 29th from exile primarily to campaign for Lincoln's defeat. Interestingly, however, the Ohio delegates had to compromise somewhat on this matter by finally accepting as the Democratic presidential candidate, General George B. McClellan, a war advocate who believed in full prosecution of the war. To help balance the ticket Representative George H. Pendleton of Cincinnati, a peace Democrat, was nominated as the vice-Presidential candidate. As adopted by the party the major plank of its platform

39 Ibid.
read: "This convention does explicitly declare, as the sense of the American people, that after four years of failure to restore the Union by experiment of war,...justice, humanity, liberty and the public welfare demand that immediate efforts be made for a cessation of hostilities, with a view to an ultimate convention of the States, or other peaceable means, to the end that at the earliest practicable moment peace may be restored on the basis of the Federal Union of the States." 41

Significantly, the issues of abolition and slavery were conspicuously absent in both the national platform and the acceptance letters of McClellan and Pendleton. But the silence of the Democratic platform and its candidates on these issues were interpreted by some political observers as being heartily opposed as ever to the "nigger." 42 One Union press editorialized that "by ignoring the whole question of slavery they [Democrats] calculate to create the impression in the South that if the democratic party can only be reinstated in power they will make due reparation and apology for all damages and grievances rebels may have suffered during the progress of the rebellion." 43

Officially, the 1864 presidential campaign began in Ohio in September, and the Democrats, though opposed to the adoption of the Thirteenth Amendment, focused their attack instead on the re-

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42 Cleveland Morning Leader, September 8, 1864.
43 Ibid.
sults of its adoption, believing its adoption inevitable, if the Union party won in October and November. Appealing to the strong racial prejudice which blanketed the state, they contended that emancipation of the slaves would result in their political and social equality. Freedom of the Blacks would also subject Ohioans "to a process of the most infamous political demagoguery in the way of new experiments for the elevation of the negro that the world ever saw." Abolition therefore would not mean the end of the black problem but only its beginning. The voters were reminded of the words once spoken by Alexis de Tocqueville during his visit in the early part of the century. On the subject of slavery he observed that the South was confronted with two alternatives, emancipation combined with fraternization or the maintenance of slavery. Therefore to adopt any intermediate measures would precipitate a race war which would seem like "child's play" when compared to the existing conflict.

The Democrats, largely through their newspapers, seized every opportunity to cast the supporters of abolition as enemies to the Union. Thus, any person or news organ that befriended the Administration and its policy of emancipation was dubbed as a "black abolitionist." Although they were vigorously opposed to abolition because they thought that it meant equality for the Blacks, there were many Peace Democrats who believed that if the war were to continue, it should be prosecuted earnestly and for the preservation

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44 Columbus Statesman, October 17, 1864.
45 Yager, loc. cit., p. 569.
of the Union without violating the domestic institutions of the states. Because most Democrats thought the use of black soldiers to fight during the rebellion meant full equality for them once it had terminated, they opposed the recruitment of Blacks as soldiers. That some believed, however, that it was wrong to oppose abolition as a military measure was reflected during a rally in Preble county by one aspiring Democratic congressional candidate:

One excuse the Democratic party has made is that this is a nigger war, and waged against slavery. I have always claimed that slavery was recognized by the Constitution and should be protected in its real rights. However, when I found that the slave-holders were in favor of severing this Union and destroying this Government, I believed they had no rights that a white man was bound to respect. When it was seen that they were employing slaves on their farms in order that all the white population could be put in the army, any sensible man would say that those slaves should be taken away by any and all inducements that could be offered. By taking them we take the sustenance of the rebel army or compel them to send their white soldiers back to till the soil.47

But such pronouncements were very rare indeed. While the Democrats accelerated their propaganda rhetoric, a careful examination of the activities of the Union party and press has revealed

46Dayton Daily Empire, September 15, 1864.
47Cincinnati Daily Gazette, October 8, 1864.
that they were unusually silent on many of the existing issues, thereby implying that Ohioans were generally un-enthusiastic about Administration policies. In an attempt to convince voters of Ohio that the worst of the rebellion was over, the Union party concentrated its efforts mainly on rejecting the war failure plank within the Democratic platform. Nonetheless, many of its leaders spoke in support of the employment of black soldiers and constitutional consummation of abolition. On September 21st former Secretary of Treasury, Salmon P. Chase, who had made an unsuccessful bid for the presidential nomination, declared at a Washington, Ohio meeting that one of the most salient features of the Baltimore platform was the plank which held that the nation had been assaulted by slavery; and because it was both the origin and strength of the war, its death was necessary in order to secure peace in the nation. In their efforts to convince the voters that the measures, especially emancipation, taken by Lincoln were necessary in order to crush the rebellion, Chase and other Unionists explained that originally it was the intention of the President to allow every state to regulate its own domestic affairs once the war had ended. But the South's persistent determination made its defeat impossible without destroying its major source of resistance, slavery.

Before the rebellion, it was argued, the federal government had no powers whatsoever to interfere with domestic slavery. But when the slaveowners commenced war to defend and protect their institution of black labor, the unchallenged thesis of John Quincy Adams,

49 Cleveland Morning Leader, September 22, 1864.
50 Cincinnati Gazette, September 26, 1864.
when he served in the House of Representatives, on the status of slavery during war-time was revived. Essentially Adams' theory was that "in the event of insurrection, when the war powers of the Government were called into play, or in the event of a foreign war, when the same powers should be called into exercise, slavery would be as much at the disposal of the General Government as any other local institution." Although in parts this argument contradicted previous statements that slavery was not recognized by the Constitution, it followed the continuity of Republican and Unionist thought on abolition as a military measure; and since it was an expediency of war, emancipation was a legitimate exercise of Presidential and Congressional authority.

Because in late summer of 1864 the military situation continued to remain gloomy and the end of the war nowhere in sight, it appeared certain that the Unionists would be defeated in the October and November state elections. But there occurred, however, in the fall the impressive victories of William Sherman and Philip Sheridan. When news of these victories reached Ohio, Union celebrations were held throughout the state, thereby "arousing enthusiasm for the cause of the Union party." Inspired by such good news on the progress of the war, the Unionists renewed their campaign with a series of attacks on the Democratic platform. At

51 Ibid.
52 Ibid.
53 Ibid.
54 Yager, loc. cit., p. 577.
Circleville Governor Brough charged that for the first time in its history the Democratic platform had smothered the "irrepressible negro" question, after they had failed to find any language in the dictionary to disguise that "colored individual" so the people would not recognize him. But their omission of slavery, continued the Governor, had not prevented them from denouncing Lincoln's position on slavery in his Niagara communication. He also maintained that they were not only inconsistent in their principles but also hypocritical. He further declared that if it had not been for the political character of slavery, it would have expired over twenty years ago; its destruction now would only mean taking away a privilege which the slaveholders never had as a "constitutional right." In conclusion he declared, "I will not say I would continue the war to free every negro in bondage; but I say, no more shall slavery be represented in the councils of my country; no two-third vote cast on the basis of slave population." Others loyal to the party stressed the issue of permanent disunion if the people elected the Democrats, who were characterized as "fast friends of the South and slavery."

Ohioans went to the polls on October 11th and scored a sweeping victory for the Union party by giving its State ticket a ma-

56Ibid.
57Ibid., p. 16.
58Ibid.
ajority vote of over 54,000. Despite the impressiveness of this victory, when compared to the Union triumph over the Vallandigham Democrats the previous year, at which time the issues of emancipation and prosecution of the war were thoroughly exhausted as political issues, the results of the October election seemed rather anticlimactic. Even more significant than the Union party's success in the state, however, was its reversal of the 1862 Democratic triumph by winning seventeen of nineteen congressional districts. This important gain by the Unionists in Ohio and other midwestern states virtually assured the continuation of Lincoln's war policy of accepting abolition only as a military necessity. Among the Democratic casualties was Samuel S. Cox, who had assumed leadership of the Ohio peace faction in Congress after Vallandigham had been rejected by his constituents several years earlier. In Congress and throughout the campaign Cox had adopted the position, representative of many Ohioans, that slavery was morally wrong; but he opposed any federal interference with the institution, believing slavery was beyond its constitutional authority.

Following the October elections the political contest in Ohio between the Unionist and Democratic parties declined considerably. Ironically, Chairman John G. Thompson of the Democratic State Central Committee had predicted earlier the success of the Union party

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60Ohio Annual Reports of the Secretary of State, 1864, pp. 21-25. For a complete listing of the Union candidates elected to Congress see Cleveland Morning Leader, October 13, 1864.
in the November elections when he warned his Democratic colleagues that "victory in October secures Victory in November."\(^{61}\)

Undoubtedly the military victories preceding the elections helped to determine their outcome. One historian has written of this election that the tremendous loss of lives during the summer left most Ohioans dissatisfied with the conduct of the war, and because Lincoln had made the abolition of slavery a prerequisite to peace, they became convinced that his administration was responsible for the prolonged fighting without any significant gains.\(^{62}\) It is therefore the conclusion of most historians that because of the 1863 victories at Gettysburg and Vicksburg, "the political tide in Ohio had been turned in favor of the Administration party, so in 1864, by the victories of Farragut, Sherman, and Sheridan, the masses were reinvigorated in spirit and the majority decided to finish the war and to re-elect President Lincoln since it is not best to change administration in the midst of a war."\(^{63}\)

\(^{61}\) The Ohio Statesman, October 3, 1864.

\(^{62}\) Yager, loc. cit., p. 588.

CHAPTER FIVE
JAMES M. ASHLEY AND AMENDMENT THIRTEEN

Although James M. Ashley had saved Amendment Thirteen from certain political death in Congress, his adamant position on abolishing slavery was not fully approved by his constituents in Ohio's tenth congressional district. Seeking re-election in 1864, Ashley not only had to face a tough Democratic opponent, Colonel A.V. Rice of Putnam county, but also dissatisfied voters who earnestly believed that southern Blacks were not ready for freedom. Such unfriendly remarks as expressed by certain constituents help to manifest the mood of Ashley's district. "I am free to say," wrote A.G. Clark, an angry Blade subscriber, "that I have never thought Mr. Ashley the proper man to represent this district, and certainly do not in the present condition of our country. As our Representative in Congress, he is recognized as the leader of the Union party. In the district, I have known no one who has done more to weaken it."1 Another ir-rate constituent remarked "well, I don't go much on his nigger, but I like him."2

1The Toledo Blade, October 10, 1864.
Because the Toledo Blade, a Unionist paper, considered Ashley a maverick on party politics, it refused to endorse his candidacy or that of his opponent, contending that Ashley was not and never had been the Union party's candidate. "On the contrary," it reported, "the organization under whose auspices he is running, is nothing more than a faction gotten up and controlled by himself through his official dependents, for his and their special benefit." The Blade further added that Ashley had been against the Union party from its inception, had urged its abandonment and had followed a course calculated to make him party leader and his "peculiar dogmas" its "political faith." On another occasion the Blade reported that Ashley only supported the federal government as long as it adopted his ideas and withheld that support whenever he disagreed with its policy. "He and the Copperheads," it declared, "only differ in the character of their demands on the Administration -- not in the condition of their support."

Meanwhile Ashley's opponent, A.V. Rice, who had served as Colonel of Ohio's 57th Infantry and was convalescing from a serious leg operation, enlisted the services of his military colleague General James Blair Steedman, a former opponent of Ashley, to aid his campaign. Unlike the Blade and other foes of Ashley, Steedman, who had recently fought gallantly at Chickamouga, emphasized the courage

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3 The Toledo Blade, October 8, 1864.
4 Ibid.
5 Ibid.
6 Ibid., October 11, 1864.
and patriotism of both candidates. This political ploy, however, was followed by the suggestion that "since Colonel Rice is unfit, on account of his wounds, for active duty in the field, for the good of our cause they change places. By making this change, so manifestly proper, we shall place a wounded, maimed patriot and soldier in a position which he is able to discharge the duties of, and put a sturdy, able-bodied, brave man into the field." He therefore called upon both the voters and soldiers of the tenth district to elect Colonel Rice as their congressional representative. When General Steedman attempted to solicit the soldier votes for Rice which certainly would have defeated Ashley, Secretary of War Edwin Stanton, who was a close friend of the Republican Congressman, intervened by ordering Steedman to Louisville, where he could do "no damage to the Republican Party for he could not reach the soldiers nor take the stump against Ashley at home." Evidently, the intervention by Secretary Stanton was instrumental in Ashley's victory because the results of the election gave Rice 2,193 votes from the constituents at home while Ashley received 1,263. But the abolitionist Congressman received 1,634 soldier votes thereby giving him a total of 2,897 votes or a plurality of 709. Triumphantly, Ashley returned to Congress in December, 1864, more confident than ever that the proposed amendment to abolish slavery would be adopted. At the close of the pre-

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7Ibid., October 3, 1864.
8Khan, loc. cit., p. 21.
vious session he had remarked somewhat prophetically that "when the verdict of the people is rendered next November, I trust this Congress will return determined to engrain that verdict into the National Constitution." In his annual message of December 8, 1864, Lincoln issued a very strong statement, urging the adoption of the Thirteenth Amendment or he would call a special session of Congress for that purpose. It seemed certain that Ashley's prophetic statement would soon be realized. In essence, the President remarked:

At the last session of Congress a proposed amendment of the Constitution, abolishing slavery throughout the United States, passed the Senate, but failed, for lack of the requisite two-thirds vote, in the House of Representatives. Although the present is the same members, and without questioning the wisdom or patriotism of those who stood in opposition, I venture to recommend the reconsideration and passage of the measure at the present session. Of course the abstract question is not changed, but an intervening election shows, almost certainly that the next Congress will pass the measure if this does not. Hence there is only a question of time as to when the proposed amendment will go the States for their action. And as it is to so go at all events, may we not agree that the sooner

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10 Congressional Globe, 38th Congress, 1st Session, 1864, P. 3,357.
the better? It is not claimed that the election had imposed a duty on Members to change their views or their votes any further than, as an additional element to be considered their judgment may be affected by it. It is the voice of the people, now for the first time heard upon the question. In a great National crisis like ours unanimity of action among those seeking a common end is very desirable - almost indispensable. And yet no approach to such unanimity is attainable unless some deference shall be paid to the will of the majority, simply because it is the will of the majority. In this case the common end is the maintenance of the Union; and among the means to secure that end, such will, through the election, is most clearly declared in favor of such constitutional amendment.¹¹

Encouraged by the words of Lincoln and convinced his own victory represented an endorsement by the soldiers of one who symbolized universal abolition, Ashley announced on December 15th that on January 6th he would introduce again for re-consideration the amendment to the Constitution which was rejected at the last session of Congress.¹²

Significantly, Ashley had been attempting clandestinely to persuade certain Northern and border-state Democrats to vote for the amendment at the next session of Congress. Aware that Frank P. Blair of Missouri and Henry Winter Davis of Maryland would support the measure whenever it was certain their votes would secure its adoption, he approached them to learn "who of the border-State members were men of broad and liberal views, and strong and self-reliant enough to follow their convictions, even to political death, provided they

¹¹Roy P. Basler, Works of Lincoln, VIII, 1864, p. 149.
¹²Congressional Globe, 38th Congress, 2nd Session, 1865, p. 53.
could know that their votes would pass the measure." He was given the names of nineteen border state representatives; of this number, thirteen were to vote for the amendment and meet a "political death."

Following his meeting with Davis and Blair, Ashley held a conference with two New York Representatives, Reuben E. Fenton and Augustus Frank, who encouraged him to seek the support of seventeen liberal Northern Democrats. Despite the pre-election efforts of Ashley to win votes for adoption of his bill to abolish slavery and the Republican victory of 1864, the fate of the amendment remained very precarious. Even though the Republicans had won an overwhelming majority of Congressional seats in the October and November elections and President Lincoln had diplomatically urged Congress to adopt the measure, the fact remained that the new Congress would not convene until mid-March. As a result, the Thirteenth Amendment to the Constitution, if voted upon in January, had to face the same House which defeated it in June, 1864. Because of the uncer-

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tainty of its passage "one vote," wrote Congressman Cox of Ohio, "was then most momentous." 16

In addition to the activities of Ashley, Secretary of State William Seward of New York, in late November or early December organized an unusual lobby, composed mainly of Northern Democrats, to campaign for crucial votes that were needed to adopt the Thirteenth Amendment to the Constitution. Although organized and directed by Lincoln's Secretary of State, the "master-mind" of the Seward lobby was W. N. Bilbo of Nashville, Tennessee, a former Whig whose devotion to the old party was one of "superstitious adoration." 17 However, before the fruits of their labor could be harvested, the Ashley campaign and Seward's lobby had to survive arduous congressional battle.

On January 6, 1865, Congressman Ashley began debate on the measure by stating that the Constitutional Fathers were not guilty of the "infamy" of creating a Constitution which denied "liberty, happiness and justice to an entire race." 18 If they were to be exonerated, then who should shoulder this grave responsibility? His answer was "trading politicians," who had administered the govern-

ment for over thirty years, apologizing, justifying and finally de-
fending slavery. That institution, he said, would have existed
only a few years after the adoption of the Constitution if that
sacred document had been properly interpreted and the government
justly administered. Since the basic fundamental principles of the
government, continued Ashley, had been "persistently violated in
its administration, and the Constitution grossly perverted by the
courts," it was now necessary to pass the Thirteenth Amendment to
the Constitution abolishing slavery. Its adoption would vindicate
the tarnished "memory of the Constitutional Fathers." Because
he saw no section or clause in the Constitution which prohibited
the enactment of such an amendment, Ashley hastily embraced the
declaratory theory that Charles Sumner had first introduced during
the Senate debate on the proposed resolution. Essentially the decl­
aratory theory held that under the Federal Constitution the pro­
posed resolution on abolition was "authorized by the common defense
and war clauses, by the republican form of government guarantee,
and by the due process provision of the Fifth Amendment."  

Ashley concluded his speech by urging all members of the House
to register a verdict which would remain for future generations to
condone or condemn. "A verdict," he remarked, "which shall declare
that America is free, a verdict which shall add another day of ju-

19 Ibid.
20 Jacobus tenBroek, Equal Under Law: The Antislavery Origins
of the Fourteenth Amendment, (New York: Collier Books, 1965),
p. 171.
bilee, and the brightest of all, to our national calendar; therefore, "let no loyal man, in such an hour as this, record his vote against this just proposition, and thus vote to prolong the rebellion and perpetuate the despotism of American slavery in this Republic." 21

In addition to the declaratory theory, as opposed to the amendatory theory which stated that the amendment would "revise or change the Constitution," the Republican argument, as in the previous session, was "based on high moral grounds, and appeals for the adoption of the proposed amendment were made in the name of justice and the God of justice." 22 Despite an able defense of the amendment by the Republicans, many die-hard Democrats refused to be persuaded. Ohio's George Bliss, for example, cautioned the House that a "revolution, leaping in the dark, is ever of the most dangerous tendency." 23 Many Democrats agreed heartedly with their Ohio colleague that the proposed measure was not only revolutionary but would "sound the death-knell of the Union forever." 24

Yet there were certain liberal and border state Democrats who remained un-committed on the issue; and most Republicans recognized that the fate of the amendment rested within this group. It had also become apparent, according to Representative George V. Julian of Indiana, that the bill's success was not only doubtful but also "de-
pended upon certain negotiations the result of which was not fully assured, and the particulars of which would never reach the public. One such incident, however, which reflected political bribery was the conflict between the New Jersey Camden and Amboy railroad and Senator Charles Sumner, who sponsored the Raritan bill; its purpose was to dissolve through congressional legislation the growing railroad monopolies. After serious discussion, Ashley and the New Jersey railroad monopoly agreed that if the former could get Sumner to postpone his bill until the next session of Congress, the latter would "make the New Jersey Democrats help about the amendment, either by their votes or absence."

When Sumner was approached by Ashley, he found the Senator very reluctant to delay the Raritan bill, "saying that he hoped the amendment would pass anyhow, etc." Ashley immediately concluded that Sumner had refused to do so because of two reasons: (1) that "If the present Senate resolution were not adopted by the House, the Senate would send them another in which they would most likely adopt Sumner's own phraseology and thereby gratify his ambition;" and (2) that Sumner thought "the defeat of the Camden and Amboy monopoly would establish a principle by legislative enactment which would effectually crush out the last lingering relics of the State rights dogma." Ashley's next step was to confide in one of Lincoln's

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27ibid.
28ibid., p. 85.
personal secretaries, John Nicolay, and request him to ask the Presi-
dent to urge Sumner to "be practical" and help to secure the passage
of the Thirteenth Amendment to the Constitution in the manner sug-
gested by Ashley.  

When Lincoln was told about the situation by Nicolay, he at once
replied that "I can do nothing with Mr. Sumner in these matters; while
Mr. Sumner is very cordial with me, he is making his history in an
issue with me on this very point. He hopes to succeed in beating the
President so as to change this Government from its original form and
make it a strong centralized power."  

He then summoned Ashley and
informed him that "I think I understand Mr. Sumner; and I think he
would be all the more resolute in his persistence on the points which
Mr. Nicolay has mentioned to me if he supposed I were at all watch-
ing his course on this matter." Evidently, Ashley finally succeeded
in persuading Sumner not to introduce his anti-monopoly measure be-
cause "the August Sumner did not report the bill during that session." Not only did two New Jersey Democrats vote for the Thirteenth Amend-
ment but immediately after its adoption the Camden and Amboy monopoly
boasted that it had helped to secure the "much wished for consumma-
tion."  

29bid.
30bid.
31bid.
32Albert Gallatin Riddle, Recollections Of War Times: Reminis-
cences Of Men And Events In Washington, 1860-1865, (New York: G.P.
Putnam's Sons, 1895), p. 325.
33Columbus Crisis, February 22, 1865.
Throughout the month of January a very spirited debate on the proposed resolution had continued in the House of Representatives. While Ashley managed the Republican forces, the Democratic opposition was led by George Pendleton of Ohio, Fernando Wood of New York, Robert Mallory of Kentucky and Daniel W. Voorhees of Indiana. Essentially, they advanced the same argument which they had used to attack the measure during the last session. In summary, they argued that the Constitution recognized the existence of slavery but not the right to abolish it. Nevertheless, they were no longer unanimous in their opposition against the institution. There were those, for example, who, moved by Republican persuasion as well as by the election returns, "had come to the conclusion that for political reasons alone, for the salvation and revival of their party, they would be wise to turn about and support the amendment." Even the prominent historian and party intellectual, George Bancroft, reflected such thinking when he advised Samuel Cox to "do away with slavery and the democrats will be borne into power on the wings of their sound principles of finance." Significantly, most Republicans regarded Cox, in spite of his defeat in October, as a powerful figure and believed his support was vital for the passage of the amendment. Accordingly, he was summoned by President Lincoln who impressed upon him how eager they were

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34 Congressional Globe, 38th Congress, 2nd Session, 1865, pp. 223; 178; 180.
36 Ibid.
to have "Democratic aid and vote for the proposition to amend the
Constitution so as to abolish slavery." Cox pledged his support and agreed to
influence those whom he could, "provided a sincere effort was made
for peace within the Union;" if this peace effort failed, he added,
"that not only by his help would the amendment be adopted, but the
war would be pursued with renewed vigor." Upon January 31st the time for the momentous decision to adopt
or reject the proposed Thirteenth Amendment to the Constitution
had arrived. A rumor was "rife that three votes were lacking" and
"strenuous efforts were being made to overcome the objections of
members." The chambers of the House were crowded with "the Judges
of the Supreme Court, the members of the Cabinet, the Vice-President and Senators, most of the foreign Ministers and all the distinguished visitors who could secure seats, with their wives, daughters and friends, were present to witness the sublimest event in our
national life." When the Speaker of the House announced that the
"gentleman from Ohio was entitled to the floor," Ashley suddenly
became seized with a strong "desire to give utterance to the thoughts
and emotions which throbbed my heart and brain." Years later he
recalled that "I knew that the hour was at hand when the world would

37 Cox, op. cit., p. 310.
38 Ibid.
39 Ibid., p. 321.
41 Ibid.
witness the complete triumph of a cause, which at the beginning of my political life I had not hoped to live long enough to see, and that on that day, before our session closed, an act, just as it was merciful to oppressor and oppressed, was to be enacted into law, and soon thereafter become a part of our national Constitution forever."  

Instead of a speech in defense of the resolution, Ashley yielded to Pennsylvania's Archibald McAllister, "an oldfashioned Democrat of the Jackson school," who had voted against its adoption, contending that it would terminate forever all hopes of reconciliation. But the failure of the various peace missions had convinced him that "nothing short of the recognition of their independence will satisfy the southern confederacy" and "it must therefore be destroyed." Thus, he had promised Ashley to cast his vote for its adoption because he wanted to vote "against the corner-stone of the southern confederacy, and declare eternal war against the enemies" of his country. Immediately after the McAllister speech, which had been read by the House Clerk because he was "so nervous that he dare not even trust himself to read what he had written," Ashley congratulated him heartily, saying "Mr. McAllister, that is a better and more telling speech by far than any which has been made for the amendment, and I believe it will be quoted hereafter more than any speech made in Congress in its favor."  

42 Ibid.  
43 Congressional Globe, 38th Congress, 2nd Session, 1865, p. 523.  
44 Ibid.  
45 Arnett, Speeches, (Philadelphia, 1894), p. 710.
Ashley was so pleased with the general applause which the McAl­
listher speech received on the floor and in the galleries, that he
readily yielded to several more Democrats, when they asked to speak
on the amendment. Alexander Coffroth, another Pennsylvanian, de­
clared he had been a professional Democrat all his life and would
like very much to place his party in power again; but "if by my ac­
tion today I dig my political grave, I will descend into it without
a murmur, knowing that I am justified in my action by a conscientious
belief I am doing what will ultimately prove to be a service to my
country, and knowing there is one dear, devoted, and loved being in
this wide world who will not bring tears of bitterness to that grave,
but will strew it with beautiful flowers, for it returns me to that
domestic circle from whence I have been taken for the greater part
of the last two years." A New York Democrat, Anson Herrick, who
had voted against the resolution from a solemn conviction of duty,
stated he would vote for it because he thought it would help to
preserve the Union and assist in the perpetuation of free institu­tions.

In an effort to repudiate what had been said by their Democratic
colleagues, Representatives Aaron Harding of Kentucky and Martin
Kalbfleisch of New York made lengthy speeches against the constitu­tional­ity of the amendment, despite evidence of impatience among their
fellow Representatives. Finally, the historic moment arrived for

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46 Ibid., p. 524.
47 Ibid.
the House to decide whether or not to adopt the proposed Thirteenth Amendment to the Constitution. While the members of the House were filled with mixed emotions, the nation, aware of the "transcedant magnitude of the issue, awaited the result with profound anxiety." Before the actual vote was taken, however, the Democrats tried unsuccessfully to postpone the voting because they had received word that a group of Southerners were waiting to discuss peace at the headquarters of General U.S. Grant. The rumor about the Confederate peace commissioners persisted. To remove all doubt from the minds of wavering Democrats who did not wish to jeopardize possible reunion by voting for the amendment, Cox, whose "vote depended on the fact," asked Ashley to inquire about the pending peace negotiations. The Ohio Representative did so and was informed by Lincoln's secretary, Nicolay, that "he knew of no such commission," and a similar response was written on a note to Ashley by the President.

After several efforts by the Democrats had failed to table the Ashley motion to reconsider the vote by which the last session of the House had rejected the proposal proposition to amend the Constitution of the United States, the Speaker began the roll call. When the clerk reached the names of those Democrats who had voted previously against the amendment, one after another voted for its adoption: James English of Connecticut; August C. Baldwin of Michigan; Austin A. King and James S. Rollins of Missouri; Wells A. Hutchins of Ohio; Joseph

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49Ibid., p. 393.
50Cox, _Three Decades_, (Providence, 1885), p. 329.
Bailey, Alexander H. Cofforth and Archibald McAllister of Pennsylvania; John B. Ganson, John Griswold, Anson Herrick, Homer Nelson, Moses F. Odell, William Radford and John B. Steele of New York; Ezar Wheeler of Wisconsin. The final vote was 119 yeas and 56 nays; two of the eight Democrats absent were Ohioans, John F. McKenny and Francis K. LeBlond. Having received a two-thirds majority, the Thirteenth Amendment to the Constitution was declared by the Speaker to be passed.

At the time the House voted to adopt Amendment Thirteen it had a total of 183 members, 94 Republicans, 64 Democrats and 25 border-state Unionists. Although the Republicans had voted unanimously for it, including the unprecedented vote by House Speaker Schuyler Colfax of Indiana, "if the border-state men and Northern Democrats who voted for the amendment had voted against, it would have failed by 65 votes." In part, the determined efforts by Ashley to persuade these men to change the position they had taken previously helped to determine the success of the amendment in the House. Conspicuously absent from the list of Democrats who voted for the resolution, however, was Representative Cox. It may be recalled that Cox had agreed to vote for its passage and to urge his Democratic colleagues to do likewise. In a speech before the House he had even argued that while the proposed amendment was inexpedient, it was none-theless constitutional, thereby removing from the Democratic opposition its major argument.  

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51 Congressional Globe, 38th Congress, 2nd Session, 1865, p. 531.
Even on the day the House was scheduled to vote on the measure, Cox was able to induce English of Connecticut to support the measure by reading to him a brief statement, "explanatory of his reasons for voting in the affirmative and assured that gentlemen he would vote with the Republicans if English did the same." But Cox never presented his speech or voted for the amendment. He later explained that contrary to reports from ranking officials that "no further negotiations were possible," he had learned from other reliable sources that peace was imminent; and that the commissioners had arrived at Grant's camp on the afternoon of January 29th, two days before the "amendment came up for action," but they were delayed because Grant was at Wilmington.

It was therefore quite obvious, said Cox, that "in some inscrutable way there were men in Congress who were better advised as to their presence than Mr. Ashley or the President;" he then concluded that adoption of the proposed amendment would be perilous to peace. Because several of Ashley's contemporaries have hinted that bribery was used to gain votes in order to pass the Thirteenth Amendment, it is significant to comment in passing on a direct charge of bribery by Cox. Years after its adoption he told of a boarding house incident involving an ex-soldier of fortune, who had learned of his intention to vote for the amendment and thereby sought "in a mercenary way" to improve his "purse by his confidential information." But

54Columbus Crisis, February 22, 1865.
55Cox, Three Decades, (Providence, 1885), p. 328.
56ibid.
when Cox voted against the measure, the "irascible radical" declared angrily that he was to "get ten thousand dollars from New York parties for influencing the writer's [Cox] vote favorably to the amendment."\(^{57}\)

Cox later "discovered the party who raised the fund which was said to be ready and freely used for corrupting members," and then questioned "can anything be conceived more monstrous than this attempt to amend the Constitution upon such a humane and glorious theme, by the aid of the lucre of office-holders?"\(^{58}\) Although Cox claimed that he could verify his accusation of bribery in writing, some historians have regarded it as being "highly improbable."\(^{59}\)

In his classic history of the United States, James Ford Rhodes, noted Ohio historian, stated categorically that "many of the Democrats acted according to their real conviction; some were won over through the process of log-rolling." He concluded, however, that money could have been used to buy up the wavering members but "it is doubtful whether any was used for this purpose."\(^{60}\) A revisionist study of the political intrigues during the civil war era has somewhat substantiated Rhodes' opinion by declaring without reservations "that money and patronage were available to speed passage of the Amendment," but it does not offer any substantial evidence that the Republicans used either one in their efforts to secure adoption of Amendment Thirteen.\(^{61}\)

\(^{57}\)Ibid., p. 329.

\(^{58}\)Ibid.


Despite the charges and counter-charges of bribery and corruption surrounding passage of the Thirteenth Amendment to the Constitution, its adoption by Congress was lauded as the "Grandest Act Since The Declaration of Independence."^62

Describing the reaction of those present in the House and galleries when it was adopted, Ashley reported that "a shout went up from the floor and galleries, and the vast audience rose to their feet, many members jumping on their desks, with shouts and waving of hats and handkerchiefs, and gave vent to their feelings by every demonstration of joy." It was a scene, said he, that "I had never before witnessed, and can never be witnessed again."^63

^62 New York Herald Tribune, February 1, 1865.
CHAPTER SIX

OHIO ACCEPTS NATIONAL EMANCIPATION

When news of the passage of the Thirteenth Amendment to the Constitution reached Ohio, one hundred guns were fired in the Capitol Square at Columbus as part of a victory celebration. The next day, Governor Brough sent a copy of the constitutional amendment to the General Assembly with the following message: "The people of the State of Ohio will cordially and promptly respond to this important change in the organic law; and you, as their representatives, will, I doubt not, with equal cordiality and promptness, give legal power and expression to their voice in this particular."¹

When the General Assembly voted to take immediate action on the amendment, Ohio's Democratic press launched a final effort to prevent its ratification by magnifying the issues of corruption and race hatred. The radical Crisis editorialized that "greenbacks have done their work." It also stated that the power of money had turned Judas Iscariot into a traitor while he served the "Divine Master," and now it had "re-asserted its supremacy in the human breast, and working upon kindred characters, wrought a betrayal almost as infamous as his."²

¹Ohio Senate Journal, LXI, 1865, p. 101.
²Columbus Crisis, February 8, 1865.
A radical piece of legislation which was based upon visionary and philanthropical reforms, commented the Portsmouth Times, was a small recompense for the injuries it inflicted.\(^3\) Therefore, its passage was seen as an insurmountable barrier in the path of peace and re-union.\(^4\)

Those Democrats who had voted for the passage of the constitutional amendment to abolish slavery were invited to follow "their imitation of Judas to its legitimate end, and hang themselves."\(^5\)

Throughout the state the Democratic press presented a united front in its opposition toward the proposed constitutional resolution. The result most Ohioans feared was best expressed in an editorial in the Crisis of February 8th.

Instead of terminating the problem of the black man, the Thirteenth Amendment, if ratified by the necessary three-fourths of states, "would open up the agitation of negro-equality and miscegenation: the right of the negro to vote, to sit in judgment upon the white man, to marry white men's daughters, and sit in pews with white men's wives."\(^6\) In a somewhat prophetic statement it predicted that as far as Ohio was concerned the black man would be free but unequal. He would be free to starve and perish from hunger, cold, disease and neglect, or recede to his previous status of barbarism.\(^7\)

\(^3\)Cited in Columbus Crisis, February 15, 1865.
\(^4\)Cited in Columbus Crisis, February 8, 1865.
\(^5\)Ibid.
\(^6\)Ibid.
\(^7\)Ibid.
He would be un-equal because of his inability to compete with a superior race for "bread, for life: a position which God never intended him, for which nature gave him no capacity." Essentially, it concluded, the Thirteenth Amendment would only make the black man a "slave without a master, a vagabond, a nuisance and a barbarism."8

Although the Unionists were jubilant over the passage of Amendment Thirteen by Congress, they recognized that it had to surmount the formidable opposition of the Democrats. Unlike their Democratic counterparts, who had argued that the amendment destroyed individual freedom, the Republicans interpreted it as a guarantee against depriving a person of his liberty without due process of law.9 That Ohio Republicans thought of the Thirteenth Amendment as a form of due process of law to protect individuals from any action by the states was certainly unprecedented, because previously only the Fifth Amendment had been adopted and interpreted as a protection of individual liberty against any encroachment by the federal government.

Shortly before the Senate began debate on the issue of ratifying the proposed constitutional amendment to abolish slavery, one Republican paper editorialized that "we trust that every man who shall be so unwise as to deny himself the honor of a vote for ratification will live to sincerely regret his misconduct."10 In the

8 Ibid.
9 Cincinnati Daily Gazette, February 1, 1865.
10 Ohio State Journal, February 3, 1865.
Senate the discussion to ratify the proposed abolition amendment precipitated a substitute resolution by the Democrats which had been introduced by Aaron Harding of Kentucky in the House of Representatives on January 18th. It provided that the "maintenance inviolate of the rights of the States, and especially the right of each state to order and control its own domestic institutions according to its own judgment, is essential to that balance of power on which the perfection and endurance of our political fabric depends." The substitute resolution was defeated, however, by a majority vote of 16. After several attempts by the Democrats had failed to delay Senate ratification of the Thirteenth Amendment, it was adopted by a strictly partisan vote of 20 to 3.

Having a Republican majority like the Senate, the House thought it was a "waste of time" to entertain debate on the ratification of the Thirteenth Amendment. Nevertheless, there were attempts by the Democrats to either block or delay its adoption. In one instance they offered a substitute measure which declared that the proposed amendment to abolish slavery had been recommended for ratification in "total ignorance or willful disregard of the Constitution by the Congress of the United States." Reference was also made to the compact between the general government and the states which had reserved to each state the right of self-government; and that whenever un-delegated powers were assumed by the federal government, its acts were

10Ohio Senate Journal, LXI, 1865, p. 172.
12Ibid.
13Ohio State Journal, February 9, 1865.
unauthoritative, void and of no force. It therefore concluded that the "proposed amendment of the Constitution of the United States in which it existed at the time of the original formation of the compact of Union, or have since adopted it, is wholly unauthorized by the Constitution, is void and of no force, and would be a wanton breach of faith on the part of the States that may adopt it to their co-States that may dissent."\(^{15}\) After it had defeated the compact theory resolution, the House voted to ratify the Thirteenth Amendment to the Constitution by a vote of 58 to 12 on February 8, 1865.\(^{16}\)

On December 18, 1865, Secretary Seward announced that the Thirteenth Amendment to the Constitution had been ratified by the necessary three-fourths of states.\(^{17}\) Its ratification and adoption by the states ended a long and controversial struggle by the abolitionists to end the institution of slavery. The abolition of slavery in the United States through a constitutional amendment marked the first time that the amending process of the Constitution had been used to effect a nationwide social reform as distinguished from procedural reforms. Significantly, the first eleven amendments were primarily procedural and had restricted only the federal government. The Twelfth had effected electoral reform. But the Thirteenth reached within the jurisdictions of the states and radically altered their social structure.

\(^{15}\) Ibid., p. 173.
\(^{16}\) Ibid.
\(^{17}\) *Documentary History of the Constitution 1786 to 1870*, (Washington: 1894), pp. 36-37.
Because it did bring an end to the domestic institution of slavery, the Thirteenth Amendment has often been referred to as the first national reform amendment. Although the abolition of slavery in America through a constitutional Amendment was unprecedented, its adoption was consistent with the general constitutional trend of expanding the areas of federal concern and action. In terms of this kind of constitutional expansion, the Thirteenth Amendment did not mark a departure from tradition. Rather, it marked a resumption of the nationalizing constitutional views of Alexander Hamilton and John Marshall.

Ohio had been one of the several states to approve the Corwin Amendment in 1861. That amendment had attempted to perpetuate slavery, presumably to preserve the Union. Obviously the approval of the Amendment reflected a major change. The idealistic abolitionist group in Ohio had sustained itself and perhaps gained new converts. Yet, in the end, it was the fact that the ratification of the amendment appeared inevitable that explains Ohio's approval.

A state that had been deeply divided on the issues of slavery and abolition now moved to implement the amendment by altering state law. For example, its Republican dominated General Assembly in 1865 voted to remove the last of Ohio's Black Laws by making Blacks eligible for a relief program to help the state's destitutes. Simultaneously, it passed a law which repealed the Visible Admixture Law which had denied anyone with "a visible and distinct admixture of African blood" the right to vote. Since the Thirteenth Amendment had repealed the three-fifth compromise, thereby increasing House represen-
tation of the South by nineteen additional votes, serious efforts were made to protect the political and economic position of the Republicans in power by enfranchising the black man.

Although Amendment Thirteen was basically a military and humanitarian measure, there were those who feared that freedom of the black man meant a threat to the status quo. This fear was particularly evident in the mid-western region, and the plight of the black man in Ohio helps to demonstrate this point. In regard to the Blacks, Ohio remained ambivalent. The Fifteenth Amendment, adopted in March of 1870, definitely enfranchised the Blacks. Under the operation of this amendment some Blacks did vote in certain Ohio counties. Yet, in defiance of the federal constitution, as late as 1911, the Ohio constitution used the term 'white' in describing the qualifications of voters.
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