

"THE GREAT RECONSTRUCTOR:"
GENERAL E. R. S. CANBY AND THE
SECOND MILITARY DISTRICT

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*2nd Military District
No. 26 - Carolina*

Congress, under Radical leadership, began passing its "Reconstruction" legislation in March, 1867. It divided the ex-Confederate states into five military districts, each of which was to be commanded by a general officer of the United States Army. It set up a procedure by which these states might be restored to the Union, stipulating that constitutional conventions were to be held in each of them. Colored residents were to have a part in choosing delegates to those bodies, but the whites who were disqualified under the provisions of the proposed fourteenth amendment to the Federal Constitution for having supported the Confederacy were to be excluded from voting. The constitutions framed by the convention were to provide permanently for Negro suffrage, at the same time disqualifying the leaders of the late Confederacy. After the charters had been ratified by a majority of the qualified voters in each state, and after the legislatures elected under those new constitutions had ratified the fourteenth amendment (the fifteenth was added later) and it had become law, the states might then "be entitled to representation in Congress." The generals assigned to command the southern districts were authorized to initiate the movement for satisfying these requirements.¹

In the second of these military districts, Major General Daniel E. Sickles commanded—but not for very long. His interference with the operation of the United States Circuit Court in North Carolina, over which Chief Justice Salmon P. Chase presided, incurred the Attorney-General's displeasure and impelled the President to remove Sickles and to appoint

¹The Acts of March 2 and 23, 1867. See *Statutes at Large . . . of the United States*, XIV, 428-429, and XV, 2. Hereafter cited as *Statutes at Large*. "The Great Reconstructor" is the title given General Canby by the *New York Tribune*. See also the *Daily Richmond Whig*, August 3, 1869.

Brigadier General and Brevet Major General E. R. S. Canby in his stead.²

In consequence of that action, General Canby was to be intimately involved in the important work of reconstruction in North and South Carolina for the ensuing year. The problems and conditions that he faced in helping to effect the return of the Carolinas to the fold of the Union were the same as or similar to those which confronted the other major generals who commanded districts in the South. His duties under the congressional plan of Reconstruction were primarily "ministerial" in character, but the manner in which he approached and performed them drastically affected the states he was appointed to govern. These states were in no position to prevent the institution of the radical-made requirements for their readmission and, within reason, they were subject to Canby's every command. Although the authorities of North and South Carolina complained vigorously about many of his actions, the Carolinas fared better than did most of the states administered by the other district commanders.

General Canby's arrival in Charleston, South Carolina, was greeted by a thirteen-gun salute and 3.12 inches of rain.³ That was followed by "close and stifling" weather and the welcoming calls of the mayor and aldermen and various other gentlemen.⁴ Meanwhile, Louisa Canby, the general's wife, was receiving "quite a number of the first ladies of the city." They created a "very favorable impression." The municipal authorities went away seemingly "satisfied" with the change in commanders, while the women were reported as

²Appleton's *American Annual Cyclopaedia, 1867* (Washington, 1868), 547-548. (Hereafter cited as *Appleton's Annual Cyclopaedia*.) Also see J. G. de R. Hamilton, *Reconstruction in North Carolina* (New York, 1914), 231-232. Hereafter cited as *Hamilton, Reconstruction in North Carolina*. See J. P. Hollis, *Early Period of Reconstruction in South Carolina* (Baltimore, 1905), 70-71. Cited hereafter as *Hollis, Reconstruction in South Carolina*. Also see "Report of the Secretary of War," *House Executive Document No. 1, Fortieth Congress, Second Session, 23*, for General Order No. 80, August 27, 1867, by which the President directed this action.

³Canby assumed command on September 5, 1867. See General Order No. 85, Second Military District, "General Orders-Reconstruction," *House Executive Document No. 342, Fortieth Congress, Second Session, 60*. Thirteen guns is a major general's salute. *Charleston Daily News*, September 6, 16, 1867. The rainfall figures are for September 8.

⁴*Charleston Daily News*, September 9, 10, 1867.

being "highly delighted" with the reception Mrs. Canby had accorded them.⁵ Otherwise, no one ventured forth onto the "red hot" streets, unless, of course, it was absolutely necessary.⁶

The civic and society leaders of Charleston were not the only ones interested in the new commanding general. Nearly everybody in the two states comprising the Second Military District was curious about him, and the newspapers of North and South Carolina obligingly printed articles relating his history.⁷ These were accompanied by comments, that of the *Charleston Mercury* being:

In his opinions he is said to be a moderate Republican, who takes no prominent part in politics and cares but little to have anything to do with political affairs.⁸

It hoped that this was so.

Nevertheless, the *Charleston Courier* revealed that while he was not a politician or a partisan he firmly believed in the efficacy of the Reconstruction acts and thought that it was the duty of all Southerners to accept the terms which had been offered them. The letter which the *Courier* quoted, supposedly from a personal friend of Canby, concluded on this note: "He will be found just to all, but corruption or

⁵ *Charleston Daily News*, September 28, 1867. Also see the *Raleigh Register*, September 24, 1867.

⁶ *Charleston Daily News*, September 10, 1867.

⁷ In 1867 Canby was fifty years old. After graduating from West Point in 1839, he served in the Florida War until 1842, on the Great Lakes frontier, 1842-1846, in the Mexican War (where he won two brevets for gallant and meritorious conduct), in California during the gold rush, on the Minnesota frontier, 1855-1857, in the "Mormon War," and against the Navajo Indians in 1860-1861. In command of the Department of New Mexico, Canby, by then a colonel, repulsed the Confederate invasion of that territory in 1862. Ordered to Washington, he became military assistant to the Secretary of War, an office which he held until May, 1864, except for four months in 1863 when he was in command of the troops that quelled the draft riots in New York City. Appointed a major general of volunteers, Canby was assigned to command the Military Division of West Mississippi, a capacity in which he received the surrender of the last two Confederate armies in the field. Thereafter his attention was directed to the problems of reconstruction, first in Louisiana (under the presidential plan for restoring the southern states to the Union) and subsequently, after this Carolina interlude, in Texas and Virginia (under the congressional plan). Following his service in the South, Canby was assigned to command the Department of Columbia, where on April 11, 1873, he was assassinated by the Modoc Indians during a peace conference. For a study of his life see Max L. Heyman, Jr., "Prudent Soldier: A Biography of Major General E. R. S. Canby, 1817-1873" (doctoral dissertation, University of California, Los Angeles, 1952).

⁸ *Charleston Mercury*, August 30, 1867.

disaffection in any guise will find him utterly inapproachable."⁹

With that, the "Old Soldier," who had served with Canby at Fort Bridger in the Utah Territory and had submitted the sketch of the general which the *Daily Sentinel* published, agreed.

Let all politicians, red, white, or green, stay away from him, and he will do justice to all. Certainly I know this; he is firm, he knows no party, and he obeys the instructions and orders of his superiors.¹⁰

This veteran, for one, was convinced that North and South Carolina were fortunate to have Canby for a military governor.

The *Charleston Daily News* was skeptical. "[I]t may be that Canby . . . will prove less objectionable to the people of the Carolinas than General Sickles. We say all this may be. There can be no certainty on this point."¹¹ Simultaneously, the *Charleston Courier* was expressing the hope of the Carolinas when it declared:

He has no other option than to enforce the Reconstruction Acts. It is believed, however, that he will administer these in a spirit of justice and liberality, without prejudice or passion, and with a desire only for the general welfare and for a harmonious restoration.¹²

There can be no doubt, after a careful examination of the record, that the acts were administered with strict justice, without the intense prejudice or passion which is usually associated with the period, and for what Canby conceived to be the general welfare. Whether one thinks that the justice meted out was impartially determined, or that Canby was influenced more by the "radicals" than by the "conservatives," depends mainly upon which side of the fence the reader happens to be.

The *New York Tribune* once remarked that "no one has ever called Canby a Radical";¹³ but, after experiencing the

⁹ *Charleston Courier*, September 3, 1867; *Chronicle* (Washington, D. C.), August 30, 1867.

¹⁰ *Daily Sentinel* (Raleigh), September 11, 1867.

¹¹ *Charleston Daily News*, August 30, 1867.

¹² *Charleston Courier*, August 30, 1867.

¹³ Quoted in the *Charleston Mercury*, August 30, 1867.

general's actions for a while, Governor Jonathan Worth of North Carolina did. That "quiet little old gentleman" of sixty-five, who was as "sharp as a briar,"¹⁴ was led to declare that "in giving us Canby for Sickles the Prest. swapped a devil for a witch."¹⁵ He regarded Canby as an "honest man," but "an unostentatious and candid Radical" who cooperated "cordially" with the less vindictive portion of Congress.¹⁶

On another occasion, he labeled Canby "an extreme Radical," who was incapable of "magnanimous and statesman-like" views.¹⁷ He considered him "a fool," "more tyrannical" and possessed of "less intelligence and consideration" for the people of the "Tar Heel" State than his predecessor.¹⁸ Indeed, after an interview with the general, Worth advised the governor of Georgia that "Our military comt. is, *com amore*, a Radical." Canby assured him, Worth declared, that "the laws he is appointed to execute, are not only constitutional, but wise." The general, moreover, believed that these measures invested him "with unlimited despotic power" over the laws and constitutions of North and South Carolina. Furthermore, Worth asserted, Canby maintained these views "as a narrow minded conscientious Radical."¹⁹ No other person was so outspoken in his criticism of General Canby as was Jonathan Worth.

Worth's judgment of Canby was, however, very probably influenced by the fact that, from his standpoint, the new district commander was less cooperative than General Sickles had been. Whereas Sickles had favorably entertained his suggestions, Canby, the governor felt, all too frequently ignored him, and even when his views were solicited by the

¹⁴ *Charleston Daily News*, October 18, 1867, quoting the *Chronicle* (Columbia).

¹⁵ Jonathan Worth to B. G. Worth, December 26, 1867, J. G. deR. Hamilton (ed.), *The Correspondence of Jonathan Worth* (Raleigh, 1909), II, 1095. Hereafter cited as Hamilton, *Worth Correspondence*.

¹⁶ Jonathan Worth to B. G. Worth, October 25, 1867, Hamilton, *Worth Correspondence*, II, 1061.

¹⁷ Jonathan Worth to John H. Wheeler, October 31, 1867, Hamilton, *Worth Correspondence*, II, 1071.

¹⁸ Jonathan Worth to R. A. DeLoach, December 13, 1867, and Jonathan Worth to W. A. Graham, January 1, 1868, Hamilton, *Worth Correspondence*, II, 1095 and 1131.

¹⁹ Jonathan Worth to Governor Charles J. Jenkins, January 3, 1868, Hamilton, *Worth Correspondence*, II, 1105-1106.

general they seldom seemed to carry much weight.²⁰ Besides, from Worth's staunch conservative point of view, Canby's actions appeared radical. It must be remembered that no matter what Canby did in pursuance of orders, the subjected whites under his control (except the radical elements, of course) deemed his actions illegal and unnecessary.

Canby's part in the process known as Congressional Reconstruction was governed by the act of March 2, 1867, and the acts of March 23, and July 19, 1867, supplementary thereto.

By the first of these measures, he was enjoined

... to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish, or cause to be punished, all disturbers of the public peace and criminals. . . .

He was authorized to allow the local courts "to take jurisdiction of and to try offenders," but when, in his judgment, it became necessary, he was empowered "to organize military commissions or tribunals for that purpose. . . ." Thereupon, "all interference under color of State authority with the exercise of military authority" was to be "null and void."²¹

In endeavoring to provide the greatest possible protection for the people of the Carolinas, Canby stationed his force of nearly 3,000 officers and men at points difficult of access, where disturbances were most likely to occur, and from which he might easily meet any unusual situation. In South Carolina, for example, he concentrated eight companies in the seaboard region, six in the central section, two in the comparatively small Savannah River District, and two in the western or mountain country of the state. This arrangement was made on the basis of the ratio of whites to colored people

²⁰ Hamilton, *Reconstruction in North Carolina*, 240; see Worth to Canby, January 23, 1868, Jonathan Worth Letter Books (North Carolina State Department of Archives and History, Raleigh). Worth compares the actions of the two district commanders in his letter to John H. Wheeler, October 31, 1867, Hamilton, *Worth Correspondence*, II, 1069-1072.

²¹ *Statutes at Large*, XIV, 428.

in each of those areas, their attitude toward one another, and the existing means of communication.²²

James L. Orr, governor of the "Palmetto" State, expostulated against this disposition of the troops. Since the state was not permitted to organize its militia, the army was the sole reliance in case of trouble and Orr felt that the presence of the troops was indispensable to the "certain preservation of peace and order." He contended that a unit ought to be posted at every one of the county seats.²³

If that proposal were carried out, Canby explained to the governor, it would reduce the military to a simple constabulary force and render it "utterly useless" in event of any serious difficulty between the two races.²⁴ "I believe that every district in this State wishes to have troops," Canby told General Grant. The people wanted a small guard in each village because it gave them a greater feeling of security and because it dispersed the army payroll among a larger segment of the population. More than that, it relieved the inhabitants of their ordinary police duties.²⁵ Yet, when a community had troops stationed in it, its residents complained constantly about the soldiers' conduct.²⁶

This desire to have the troops everywhere was, of course, merely a manifestation of the uneasiness in some, if not most, sections of the state. Canby was "sorry to see" it, for the excitement tended "naturally and inevitably" to give a "coloring or suspicion of wrong" to perfectly legal and harmless acts on the part of the Negro. The general was satisfied

²² Canby to the Chief of Staff, Headquarters of the Army, December 23, 1867, Second Military District, Letters Sent, No. 1891, 1867. Canby had thirty-seven companies at his disposal. See Return, February, 1868, Second Military District, Letter Sent, No. 1012, 1868. All the material on the district, unless otherwise indicated, may be found in the War Records Division, National Archives.

²³ Governor James L. Orr to Canby, November 29 and December 18, 1867, Governor Orr's Letter Books, III, 237-239, 329. Governor Orr's Letter Books are located at the Historical Commission of South Carolina, Columbia. Hereafter referred to as Orr Letter Books.

²⁴ Canby to Orr, December 24, 1867, Letters of Edward R. S. Canby, Historical Commission of South Carolina. Hereafter cited as Canby Letters.

²⁵ Canby to Grant, December 18, 1867 and Canby to Chief of Staff, December 23, 1867, Second Military District, Letters Sent, Nos. 1826 and 1891, 1867.

²⁶ See Lt. Louis V. Caziarc, Assistant Adjutant General, to Messrs. T. B. Whaley, I. G. W. Strowmann, and others, Orangeburg, S. C., September 17, 1867, Second Military District, Letters Sent, No. 696, 1867.

that the freedmen did not want to make trouble. As a matter of fact, he was persuaded that they were "quite as apprehensive as the whites. . . ." But this mutual fear and distrust could lead to disorders.²⁷ The cry of "negro insurrection" had been used so much for political effect that any incident was greatly magnified out of all proportion to its actual significance.²⁸

To forestall any outbreaks of this nature, newspaper reports and complaints registered by individuals were promptly followed up. On October 31, for instance, Governor Orr informed Canby that he had "reliable" information that some 300 freedmen of the Abbeville District in the western part of the state were meeting regularly every other week to drill and "as they say preparing to fight for land." The governor requested the general to take steps to prohibit the Negroes from assembling and to punish the ringleaders as their crimes deserved.²⁹

"Complaints of this kind are not at all new," Canby replied. They were frequently made and, upon investigation, it was usually found that the meetings were not unlawful in character or for any illegal purpose. In this case, the special agent whom he had dispatched to the scene reported that the Negroes had been in the habit of assembling there and elsewhere for some time past. Nevertheless, those guilty of violating any police regulations had been arrested and brought to trial before a military commission.

Some of the freedmen were found to be carrying arms, allegedly to protect themselves against attack by the whites. The fact that threats had been made against them was beyond doubt. Whether serious or not, the Negroes believed that they were made in earnest and had prepared to resist any attempt to break up their meetings. Aside from that, Canby assured the governor, there was no evidence that anything was brewing. If a collision did occur, Canby insisted, it would be "without intention on the part of the

²⁷ Canby to Chief of Staff, November 30, 1867, Second Military District, Letters Sent, No. 1560, 1867.

²⁸ Canby to Chief of Staff, December 12, 1867, Second Military District, Letters Sent, No. 1867, 1867.

²⁹ Orr to Canby, October 31, 1867, Orr Letter Books, III, 188.

negroes and from provocation on the part of ignorant or unprincipled whites."

He pointed out that the possession of firearms by the Negroes was still a novelty, and that the fears excited were not unnatural. But it seemed unreasonable to him to assume that they were to be used for hostile purposes and that "every assemblage of negroes is to drill preparatory to fighting for land." Dressing in old army clothes was not peculiar to South Carolina or to the freedmen and, the general chided Governor Orr:

I have known the same complaint of waste of time in attending political meetings to be made of white men, when the question involved did not touch their interests so nearly as those now involved do touch the present and future interests of the negroes.

Of course, Canby mollified him in conclusion, he intended to watch the situation closely, and was ready to control and check immediately any "wrong tendency" that might arise.³⁰

On another occasion, Governor Orr sent Canby an article from the *Winnsboro News*, telling of an "incendiary" speech delivered by a colored magistrate in Fairfield County. Again, Orr requested Canby to "depute a decent officer" to inquire into the matter and to remove and punish this military appointee if the report proved correct.³¹

The investigation disclosed that the *News'* version of the speech was, as Canby had suspected,³² "a great perversion" of what had been said.³³ The governor thereupon became very indignant, maintaining that Canby had prejudged the affair, and he, therefore, childishly refused to forward the evidence which he had in his possession.³⁴

That brings up an important point. Much of the evidence available in this period conflicts. The facts were subject to more than one interpretation and there was doubtless some falsification of them. There is no reason to believe, however,

³⁰ Canby to Orr, November 25, 1867, Second Military District, Letters Sent, No. 1499, 1867.

³¹ Orr to Canby, November 27, 1867, Orr Letter Books, III, 230-232.

³² Orr to Canby, December 1, 1867, Orr Letter Books, III, 331.

³³ Second Military District, Letters Received, J59, 1867, is the report. See also Canby to Orr, December 1, 1867, Canby Letters.

³⁴ Orr to Canby, December 1, 1867, Orr Letter Books, III, 331-332.

that either the governor or General Canby ever engaged in this misdeed intentionally. They merely took the word of their informants or subordinates to whom they entrusted the investigation of these reports. They could not be everywhere themselves. Canby could not avoid making some mistakes, but, where the evidence does not agree, his information has been given precedence, for that was the basis upon which he acted.

In maintaining order throughout the district, Canby preferred to leave the enforcement of the laws to the local authorities. These officers had been placed, by General Sickles, under the supervisory control of the provost marshal general of the command³⁵ and "in direct relation and correspondence" with the several post commanders. General Canby continued this policy, but, while defining more clearly and fully that relationship, he counseled non-interference with their activities. Only where those officials refused or failed to act, or "when it became manifest that from past political action or by reason of prejudice against color or caste, impartial justice would not be administered," did he authorize intervention in the usual mode of procedure.³⁶

Canby was especially disturbed by the prejudice shown by various civil functionaries. He discovered that some of the local magistrates were unwilling to investigate "well founded" complaints made by freedmen against white men. They were governed by "traditions of the past . . . instead of the law as it exists." The most effective solution for this, in his opinion, was "the exercise by the community of such moral coercion as will constrain the local authorities to deal as impartially and justly with the negro as with the whites"³⁷—but that was wishful thinking.

Over 8,000 arrests were made in the Second Military District between March 2, 1867, and July 24, 1868, and about

³⁵ Canby to Assistant Adjutant General, Headquarters, October 24, 1867, in "Report of the Secretary of War," *House Executive Document No. 1*, Fortieth Congress, Second Session, 300. Hereafter cited as *Canby Report, 1867*.

³⁶ Canby to Chief of Staff, Headquarters, August 31, 1868, in "Report of the Secretary of War," *House Executive Document No. 1*, Fortieth Congress, Third Session, 338. Hereafter cited as *Canby Report, 1868*.

³⁷ Canby to Orr, November 25 and 30, 1867, Second Military District, Letters Sent, Nos. 1499 and 1560, 1867.

one-eighth of them were made by the army.³⁸ These arrests inevitably became the object of protest by the newspapers and the governors of both states, often after the civil authorities had requested the army to take action in the matter. Governor Worth was particularly vexatious in this regard. He considered the power of military arrest "iniquitous" and "most oppressively exercised" in the "Old North" State. He even remonstrated with the President so vehemently about these acts of "military despotism" that he thought it would result in his removal, or Canby's.³⁹

Neither was removed, but Canby found it necessary to defend himself against Worth's charges. In refuting the accusations that had been made, Canby asserted that he had more than once in years past secured the arrest of criminals and held them in his guard house until the proper authorities were prepared to take charge of them. He saw no grounds for the governor's objection on that score. In other respects, he conceded:

It is always to be regretted that innocent persons should be arrested or subjected to any restraints or inconvenience from false accusation or unfounded suspicion, but this is an incident of civil as well as military arrests.

"Charges of military despotism are easily made," Canby observed, but military arrests were not made without previous investigation or on "strong evidence of guilt."

As a general rule [Canby concluded] these complaints are disin[g]enuous in the use that is made of them by being published for political effect with the knowledge that the officer accused is restrained by rules of military propriety from making any public defense or counter statement.⁴⁰

³⁸ *Canby Report, 1868*, 351-353. Arrests made by the military at the request of the civil authorities were not counted as military arrests and are therefore not included in this number. Persons arrested as witnesses, however, are included in this number.

³⁹ See the *Daily Sentinel*, October 25, 1867; the *Charleston Mercury*, March 4, and November 30, 1867, and January 23, 1868; *Worth Letter Book, 1865-1867*, I, 578-579, 688-692, and *Worth Letter Book, 1867-1868*, II, 50-51. Also see Hamilton, *Worth Correspondence*, II, 1069-1070, 1085, 1090-1091, 1095, 1098-1099, and 1101-1103.

⁴⁰ Canby to Chief of Staff, November 14, 1867, Andrew Johnson Papers, CXXIV, f. 17833-17854, Library of Congress.

As far as trials by military courts were concerned, only 550 cases were tried before those tribunals in the sixteen months of their existence in the Second Military District. Judge advocates do not and did not take cases into court unless they are or were almost positive of obtaining a conviction. They won 445, or eighty per cent, of the cases tried. And that was a poor showing, undoubtedly due to the fact that they were dealing with civilians for the most part and were obliged to argue some cases which should never have been brought to trial. Besides that, 129 of the sentences passed by these courts were either partially or wholly remitted by the commanding general.⁴¹

Congress had authorized the use of military courts in the South, while leaving their civil counterparts open. It was not General Canby's fault that this defied the opinion of the Supreme Court in the case of *Ex parte Milligan*. The only question that can seriously be raised against him is: Did he resort to military courts too much, or was it expedient for him to have used them as often as he did?

Many persons asked Canby for military trials, but it is estimated that about ninety-five times out of a hundred he informed them that adequate remedy could be secured in the civil courts. So, too, many individuals emerging the losers in cases tried by the civil tribunals appealed to him for retrials under military auspices, or at least military intercession in the decisions of the civil courts. The records show that these pleas were refused nearly all the time.⁴²

According to General Canby's report on the subject, interference with the local courts was permitted only "in the exceptional cases growing out of the rebellion." How many times he annulled, stayed, or dismissed cases is not known, but he took action in three general types of cases.

⁴¹ *Canby Report, 1868*, 353. The period actually covered is January 1, 1867, to June 30, 1868.

	Whites	Colored
Tried	368	182
Guilty	303	142
Not Guilty	65	40
Remissions:		
Partial	63	20
Whole	17	29
Conviction	82 per cent	78 per cent

⁴² Second Military District, Letters Sent, 1867-1868, *passim*.

The first class were prosecutions for acts committed during the war under military orders. Cases of this sort were quite numerous in North Carolina, where the population had been divided in its allegiance, and when it was established, "by satisfactory evidence," that the animosity engendered by civil strife was the reason for the action, Canby stopped the proceedings.

In the second class of cases, where the local courts attempted to validate or give effect to unexecuted judgments of the late Confederate judiciary, Canby ordered dismissals; while in the third class, he stayed those cases involving a denial by the local tribunals of the right of appeal or removal to the Federal courts as guaranteed by the laws of the United States.⁴³

Canby continued to enforce all the orders and regulations that had been promulgated by his predecessor, but, from time to time, he revoked or modified some of them. Of the many changes that were made, the one which perhaps caused the most indignation was the order directing the admission of freedmen to jury duty.⁴⁴

In North Carolina, the qualification for a juror was determined by the possession of a freehold estate; in South Carolina, it was, for all practical purposes, determined by a person's color. Canby therefore decided to change the existing systems in order to "secure representation in the jury box to classes heretofore excluded, and constituting in the two States . . . a majority of the population." It was not only a question of abstract justice; but one that the interests of the community required should be so settled as not only to secure the legal rights of all classes, but also to give that sense of security which is the best guarantee of order and subordination to law, and the remedies it affords for the redress of all wrongs.

Canby encountered many practical difficulties in securing this legal right "to all the inhabitants," without at the same time introducing the "dangerous elements of vice and ig-

⁴³ *Canby Report, 1868*, 339-340.

⁴⁴ *General Order, No. 89*, September 13, 1867, "General Orders—Reconstruction," 61. General Sickles had already made provisions for Negro juries, *General Order, No. 32*, May 30, 1867, "General Orders—Reconstruction," 46. Also see Hollis, *Reconstruction in South Carolina*, 72; and Hamilton, *Reconstruction in North Carolina*, 234.

norance." He did not for that very reason, extend the jury lists as far as General Grant would have liked.⁴⁵ As he finally established it, all citizens who were assessed for taxes and who were qualified to vote were embraced in the jury lists, but the courts were permitted to purge all individuals who were mentally or morally unfit.⁴⁶ Color alone, however, was not deemed sufficient reason for disqualification.⁴⁷

For thus modifying the law, Canby was vilified by the press (especially in South Carolina), Governors Orr and Worth objected (it was the former who wrote the President on this occasion), a superior court justice in North Carolina resigned in protest, and Canby was forced to suspend and then remove from office a judge in South Carolina who refused to execute the order.⁴⁸

This power to suspend or remove from office any appointed or elected official, state, municipal, or otherwise, and the authority to appoint some other person or detail a "competent officer or soldier of the army" to fill the vacancies created by such suspensions or removals or by death or resignation, was conferred upon Canby by the Reconstruction Act of July 19, 1867.⁴⁹

Canby made a number of removals, but the exact figure escapes disclosure. In North Carolina, according to J. G. deR. Hamilton, it was only a small number—three sheriffs and seventeen magistrates.⁵⁰ In South Carolina, besides the judge who has been referred to above, the mayor of Charleston, his military successor, thirteen members of the board of alder-

⁴⁵ Canby to Chief of Staff, September 14, 1867, Second Military District, Letters Sent, No. 676, 1867.

⁴⁶ *Canby Report, 1868*, 337-338.

⁴⁷ Canby to Adjutant General, October 15, 1867, Second Military District, Letters Sent, No. 953, 1867. Also see Worth to P. T. Massey, October 17, 1867, Hamilton, *Worth Correspondence*, II, 1054.

⁴⁸ *Charleston Courier*, October 3, 14, 15, 16, 1867, 2; *Charleston Mercury*, October 3, 4, 14, 15, 1867. The October 15 issue carries Governor Orr's letter to the President; Worth to Canby, September 10, 11, 30, and October 18, 1867, Worth Letter Book, I, 576-578, 578-579, 590, and 627-628; *Canby Report, 1867*, 304-307; and *Canby Report, 1868*, 338. Also see Canby to Chief of Staff, October 19, 1867, Second Military District, Letters Sent, No. 1012, 1867.

⁴⁹ *Statutes at Large*, XV, 14.

⁵⁰ Hamilton, *Reconstruction in North Carolina*, 238. In *Canby Report, 1867*, 312, there is a table showing the appointments and removals made to September 30, 1867, but it does not give any clue as to how many were removed or appointed by Canby. In twenty-five days, it could not have been very many.

men, the mayor of Columbia, and eight of that city's aldermen were removed at the general's behest; and there were others.⁵¹

Nearly every one of these removals seemed arbitrary and uncalled for to the people, inasmuch as the reasons for them were not usually revealed. But Canby did not make removals unless the officers in question were "disloyal" or obstructed the "due and proper administration" of the Reconstruction Acts.⁵² If the word of the press is to be accepted he always acted without cause, due to the pressure brought to bear by the "Republican colored committee," "with no other motive than to punish and humiliate a proud, brave, manly, wrong hating people," or just to satisfy a whim.⁵³ The *Columbia Phoenix* made the typical comment when it remarked:

Gen. Canby . . . has made some changes in our municipal government, not because of any grounds of complaint against the duly elected representatives of the people of Columbia, but simply because, as we presume, it seems good to him thus to act in the plenitude of his powers. The sword of the oppressor thus opens the way for the new regime to be tried in South Carolina.⁵⁴

Canby's appointments were also received with disfavor, particularly when he appointed Negroes or "carpetbaggers" to office.⁵⁵ As a general rule, however, Canby allowed the governors of North and South Carolina to nominate individuals for office. The responsibility for making the appointments rested with him alone, and he did not always accept their recommendations.⁵⁶

Canby sincerely desired to fill the public offices with "men of unblemished character," and he, therefore, had the back-

⁵¹ John S. Reynolds, *Reconstruction in South Carolina* (Columbia, 1905), 70-71. Hereafter cited as Reynolds, *Reconstruction in South Carolina*. Canby to Chief of Staff, February 21, 1868, Second Military District, Letters Sent, No. 795, 1868. *Charleston Courier*, May 27 and July 7, 1868. See also Special Order No. 191, section I, October 28, 1867, "General Orders-Reconstruction," 94.

⁵² Canby to W. W. Holden, September 24, 1867, Second Military District, Letters Sent, No. 763, 1867.

⁵³ *Charleston Courier*, May 27, 1868, and *Charleston Daily News*, May 29, 1868.

⁵⁴ Quoted in *Charleston Courier*, June 22, 1868.

⁵⁵ Canby appointed seven Negroes to serve as aldermen in Charleston. *Charleston Courier*, May 29, 1868; *Charleston Daily News*, May 29, 1868. Also see Hamilton, *Reconstruction in North Carolina*, 328.

⁵⁶ Canby to Worth, January 19, 1868, Second Military District, Letters Sent, No. 263, 1868.

ground of every recommended person investigated.⁵⁷ Of course, just what qualities one needed in order to have an "unblemished character" was subject to a difference of opinion. Governor Worth, for example, professed his inability to find a man of "respectable pretensions to fitness" whom he could nominate to succeed the judge who had resigned over Canby's jury order.⁵⁸ The general, on the other hand, questioned Worth's "standard of qualification." If devotion to "our holy and lost cause" was the basis on which Worth assessed the worthiness of a man for office, then Canby did not want his nominations.⁵⁹

In several instances, Canby continued in office those officials whose terms had expired, which was, in a way, appointing them to their posts.⁶⁰ He did this because the present governments were provisional only until the states were admitted to representation in Congress.⁶¹ When that happened, his appointments would lapse, and he did not wish to embarrass the new administrations by having them find, upon their inauguration, that they could do nothing about the officials who were in office as a result of being elected for normal terms by his orders.⁶²

In dealing with the subjects that have been discussed thus far, Canby was abetted by a Bureau of Civil Affairs, which acted as a clearing house for the business of the district. Generally, anything relating to the operation of the Reconstruction acts and to the legal relations of the political communities, civil officers, and individuals in the Carolinas came within its purview. In handling these matters, the bureau framed orders and regulations, which, upon Canby's approval, were promulgated in the district; and it also prepared

⁵⁷ Canby to Worth, January 4, 1868, Second Military District, Letters Sent, No. 42, 1868.

⁵⁸ Worth to Canby, January 11, 1868, Worth Letter Book, II, 55.

⁵⁹ Canby to Worth, January 19, 1868, Second Military District, Letters Sent, No. 263, 1868.

⁶⁰ For instance, he ordered the town council of Spartanburg, South Carolina, to continue in office. See *Charleston Mercury*, October 2, 1867.

⁶¹ *Statutes at Large*, XIV, 429, Act of March 2, 1867.

⁶² Canby to Hon. A. G. Mackey, President of Constitutional Convention, Charleston, May 26, 1868, Second Military District, Letters Sent, No. 1922, 1868. Also see Caziarc to J. W. Schenck, Jr., Chairman, Republican County Committee, Wilmington, N. C., December 6, 1867, Second Military District, Letters Sent, No. 1636, 1867; and *Canby Report, 1868*, 341.

briefs and opinions for his scrutiny, thereby enabling him to act more promptly and presumably more intelligently on questions presented to him for decision.⁶³

The registration of voters, as prescribed by the act of March 23, 1867, was managed through the bureau and had been in progress for over a month when Canby arrived in Charleston. It was concluded twenty-five days after he assumed command of the district.⁶⁴ This registration was in the hands of officials appointed by General Sickles; consequently, other than a few specific decisions on who could register and the appointment of a couple of registrars to fill vacancies that occurred, Canby's major contribution to this phase of the reconstruction process was the issuance of a rather "liberal" index upon which the revision of the registration lists was based.⁶⁵

When registration was completed, Canby ordered an election, at which the qualified voters in each state were to cast ballots for or against a constitutional convention.⁶⁶ They were, at the same time, to select delegates to constitute the convention in case a majority of the voters were in favor of it (and provided a majority of those registered exercised their franchise).⁶⁷

The election was held on November 19 and 20 and, after a preliminary scare that the call for a convention had failed in South Carolina, the voters of both states were found to have expressed their preference in favor of holding conventions.⁶⁸ Accordingly, in conformity with the fourth section of the March 23 Reconstruction Act, Canby directed that

⁶³ *Canby Report, 1867*, 310-311. A. J. Willard, who later became chief justice of the State Supreme Court of South Carolina, who was in charge of this bureau. See Francis B. Simkins and Robert H. Woody, *South Carolina during Reconstruction* (Chapel Hill, 1932), 143.

⁶⁴ *Canby Report, 1867*, 312. See General Order No. 65, August 1, 1867, "General Orders-Reconstruction," 50-53.

⁶⁵ William A. Russ, Jr., "Disfranchisement in North Carolina, 1867-1868," *North Carolina Historical Review*, XI (October, 1934), 278. See Circular of October 31, 1867, "General Orders-Reconstruction," 69-72. Also see *Daily Sentinel*, November 8, 1867.

⁶⁶ General Orders Nos. 99 and 101, October 16 and 18, 1867; "General Orders-Reconstruction," 63-64, 65-66. The former is for South Carolina.

⁶⁷ *Statutes at Large*, XV, 3, Act of March 23, 1867.

⁶⁸ Canby to Grant, November 29, 1867, Second Military District, Letters Sent, No. 1543, 1867. For the vote, see Canby to the Adjutant General, February 19, 1868, "Registered Voters in Rebel States," *Senate Executive Document No. 53*, Fortieth Congress, Second Session, 3-7.

the delegates chosen at the late election be convened on January 14, 1868, for the purpose of framing constitutions and civil governments for their respective states.⁶⁹

General Canby did not have very much to do with these conventions. In South Carolina, he refused to act upon several resolutions presented to him by that body, although he did issue an order, as requested, temporarily staying, for a period of three months, all executions and sales of property for debt.⁷⁰ He sanctioned a similar law, though one of longer duration, for North Carolina.⁷¹ In both states, on the adoption of ordinances for the assessment of taxes to cover the cost of the conventions, Canby directed the treasurers of the respective states to advance money to defray the current expenses of those assemblies.⁷² He did this because he believed that the members of the conventions and their creditors should not be compelled to wait for the collection of the taxes when sufficient funds were already in the state treasuries.⁷³ Other than staying until the end of the convention session the court proceedings in an assault and battery case against the assistant doorkeeper of the North Carolina assemblage,⁷⁴ Canby does not seem to have taken any further part in the affairs of either body.

When the conventions adjourned *sine die*, their handiwork and candidates for office in each state had to be submitted to

⁶⁹ General Orders, Nos. 160 and 165, December 28 and 31, 1867, "General Orders-Reconstruction," 81-92, 84-85. The latter is for North Carolina.

⁷⁰ General Order No. 14, January 31, 1868, "General Orders-Reconstruction," 97-98. Also see A. G. Mackey to Canby, January 25, 1868, Second Military District, Register of Letters Received, II (LXVIII), 591; Reynolds, *Reconstruction in South Carolina*, 80; and Appleton's *Annual Cyclopaedia, 1868*, 693.

⁷¹ General Order No. 57, April 2, 1868, Second Military District, General Orders, 1868. Also see Hamilton, *Reconstruction in North Carolina*, 262-263; and Appleton's *Annual Cyclopaedia, 1868*, 555.

⁷² Hollis, *Reconstruction in South Carolina*, 88. General Order No. 17, February 6, 1868, "General Orders-Reconstruction," 98-99, for South Carolina. Hamilton, *Reconstruction in North Carolina*, 260-261. General Order No. 20, February 12, 1868, Second Military District, General Orders, 1868, for North Carolina.

⁷³ Kemp P. Battle, *Memoirs of an Old-Time Tar Heel* (Chapel Hill, 1945), 213-214. Edited by William J. Battle. Kemp P. Battle was treasurer of North Carolina.

⁷⁴ Canby to C. J. Cowles, President of Constitutional Convention, Raleigh, March 14, 1868, Second Military District, Letters Sent, No. 1052, 1868. On January 17, 1868, he attended a session of the South Carolina Convention to hear Governor Orr address that body. See *Charleston Courier*, January 18, 1868. On February 12, 1868, he sat in on the North Carolina Convention. See *North Carolina Standard*, February 13, 1868.

the voters. So, while the nation buzzed about the impeachment move against President Johnson, Canby proceeded to authorize a second election for the Carolinas.⁷⁵

On learning that there might be attempts by "combinations" to prevent, delay, or hinder persons from voting by force, intimidation, or threats of violence, the general promulgated another order warning that any interference with the election would be punished as provided by law.⁷⁶ One thing that bothered him was how to prevent persons from discharging their employees or tenants for not voting as they were told. He sought to forestall this by letting it be known "that the duty of the military authority to secure a fair and free election will be fully performed"; that if laborers and tenants were displaced and became public charges, the county poor wardens would be required to take care of them and an additional tax would be levied for that purpose. Moreover, advances by the Freedmen's Bureau would be withheld from planters who engaged in this practice.⁷⁷ How Canby proposed to ascertain positively who dismissed his employees because of the way they voted is difficult to perceive.

Hamilton has asserted that General Canby had the names of the candidates for office in each state placed on the same ballot with the question of ratification of the constitution, thus, by a "piece of entirely unjustifiable partisan politics," preventing all who had been disfranchised under the Reconstruction Acts from exercising their franchise as provided by the newly framed charters.⁷⁸ This statement is somewhat misleading. By the fourth section of the Second Reconstruction Act, the proposed constitutions had to be ratified by "the persons registered under the provisions of this [the March 23] act. . . ." ⁷⁹ Canby merely conformed to the letter of the

⁷⁵ General Orders Nos. 40 and 45, March 13 and 23, 1868, "Elections in Southern States," *House Executive Document No. 291*, Fortieth Congress, First Session, 9-11, 4-8. The former was for South Carolina.

⁷⁶ General Order No. 61, April 6, 1868, Second Military District, General Orders, 1868.

⁷⁷ General Order No. 80, May 2, 1868, Second Military District, General Orders, 1868; see also Caziarc to Colonel W. B. Royal, April 10, 1868, Second Military District, Letters Sent, No. 1337, 1868.

⁷⁸ Hamilton, *Reconstruction in North Carolina*, 285-286.

⁷⁹ *Statutes at Large*, XV, 3.

law, which he interpreted to mean that the constitutions just drafted remained inoperative until they were accepted by Congress.⁸⁰

It is true that if Canby had permitted the vote on the question of ratification to be taken first, waited for Congress to approve the new documents, and then allowed a second election for state and country officers, most of those who had been disfranchised by Congress would have had a chance to vote on the candidates for office. But this would have been an involved, costly, and time-consuming process to say the least.

Canby did, however, have the registration lists revised before the poll on ratification was taken and whereas, in North Carolina, the total registration prior to the election on the convention question had been 178,665, it was now raised to 196,873—an increase of over 18,000. In South Carolina, the earlier registration figure was upped 5,139 to 133,195.⁸¹

Canby did everything possible to get out the vote,⁸² even suspending the sessions of the state courts so that all might have an opportunity to exercise their franchise.⁸³ The election was held April 14 to 16 in South Carolina and April 21 to 23 in North Carolina, and the people of the two states accepted the proposed constitutions.⁸⁴

On June 25, 1868, Congress approved these charters.⁸⁵ The states had only to install their new officers, ratify the proposed fourteenth amendment to the Federal Constitution, and the ordeal by Congressional Reconstruction would be over.⁸⁶ At this juncture, in order to "facilitate" the organization of the new administrations, Canby removed the provisional officers of both states and appointed the recently elected officials in their stead.⁸⁷ This was done by General

⁸⁰ See Canby to Orr, May 1, 1868, Second Military District, Letters Sent, No. 1600, 1868.

⁸¹ *Canby Report, 1868*, 340-341.

⁸² See the provisions of General Orders Nos. 40 and 45, March 13 or 23, 1868, "Elections in Southern States," 5, 9-10.

⁸³ General Order No. 65, April 10, 1868, Second Military District, General Orders, 1868.

⁸⁴ *Canby Report, 1868*, 340-341.

⁸⁵ The constitutions of Alabama, Florida, Georgia, and Louisiana were also accepted in the "Omnibus Bill." See *Statutes at Large*, XV, 73-74.

⁸⁶ *Statutes at Large*, XIV, 429, Act of March 2, 1867.

⁸⁷ General Order No. 120, June 30, 1868, Second Military District General Orders, 1868.

Grant's direction and was in accord with the desire of the Radicals to be certain that the reconstructed state governments came into existence. There was the possibility that the incumbents would refuse to yield office, and that could be embarrassing, especially if the matter was brought before the courts.

It is perhaps, useless to speculate upon the considerations, which produced so sudden a change in the mind of the District Commander, as to cause him to modify his first order providing for the inauguration of the *civil* government. There is no accounting for the vagaries of military caprice, especially when the caprice is the result of an utter ignorance of law and of usage in civil affairs.

The *Daily Sentinel* (Raleigh) contended that if General Canby's object was to avoid an "awkward dilemma," then he had "jumped out of the frying pan into the fire," and by his "boggling proceedings" had placed the governor-elect in an "ungraceful" position.⁸⁸

Canby also took this step because many of the candidates-elect in North and South Carolina could not take the test oath of July 2, 1862. Until the ninth section of the Third Reconstruction Act was nullified in each of the states undergoing reconstruction that oath was required of all its appointed or elected officials. It was, unfortunately, a technicality that debarred "many active and zealous friends of the Union and of restoration" from holding office and, Canby maintained, it ought to be dispensed with at once. Indeed, he recommended that course to Congress.

To continue the disabilities which exclude these persons is to deprive the government still further of the services of intelligent and well-disposed men, whose technical disqualification is their only fault, and whose aid is essentially important to the speedy organization and successful working of the new State governments. The removal of the disabilities, while it will not jeopardize any interest which it is the policy of the government of the United States to conserve and foster, will, in my judgment, not only meet the approval of a large majority of the people of the two States, but will disarm much of the opposition

⁸⁸ *Daily Sentinel*, July 3, 1868.

which the new State governments must expect to encounter, and contribute greatly to the permanent success of the work of reconstruction.

Canby thought it would be "inexpedient" to dispense with the requirement which he desired to see relaxed if there were any "personal considerations" prejudicial to the officers-elect, but he did not know of any such objections.⁸⁹

Canby considered it "so important" to organize the new administrations before military control was withdrawn that he went ahead and adopted the recently recognized constitutions of North and South Carolina as the fundamental law of each state.⁹⁰ He held that the Congressional approval of the proposed constitutions made them a part of the Reconstruction acts and, to the extent that Congress had directed or authorized action under them in advance of the admission of the states, dispensed with the provisions of any previous laws that conflicted with those charters.

The law of June 25, 1868, approving the constitutions of [North and South Carolina], and authorizing specific action under them [Canby explained], was regarded by me as dispensing with the oath of office prescribed by the law of July 2, 1862, first as to the members of the general assembly, and, after the ratification of the constitutional amendment, to the other State officers duly elected and qualified under those constitutions. This construction, in its first application, did not include the governor and lieutenant governor, but as the organization of the legislature would have been incomplete without the lieutenant governor, and as the legislative action required by the law might have been embarrassed by the action of the old incumbents, the General of the Army directed that they should be removed and the governor and lieutenant governor elect should be appointed in their places.⁹¹

⁸⁹ Canby to Chief of Staff, May 4, 1868, "Second Military District," *House Executive Document No. 276*, Fortieth Congress, Second Session, 2-4, the quote being on the latter page.

⁹⁰ Canby to Chief of Staff, May 7, 1868, "Letter on the South Carolina Convention," *Senate Executive Document No. 55*, Fortieth Congress, Second Session, 2.

⁹¹ Grant approved Canby's first action. See Canby to B. W. Gillis, June 26, 1869, "Test Oath in Virginia," *House Miscellaneous Document No. 8*, Forty-first Congress, Second Session, 16.

On July 24, 1868, having been notified that the legislatures of North and South Carolina had ratified the constitutional amendment known as article XIV, Canby remitted to the civil authorities of the two states all the power conferred upon and exercised by him under the act of March 2, 1867.⁹² The "dominion of arms" was over and the people of the Carolinas turned to face civil radical rule. Nevertheless, the press rejoiced; the *Wilmington Journal*, for example, declaring:

It gives us pleasure . . . to publish the final order of the Commander of this Military District. We may need the presence of the military to check the revolutionary schemes of the Radicals, and if so, we trust we may be favored with an officer and not a partisan—a soldier full of honor and justice, and not the tool of designing and bad men.⁹³

Could the editor have been referring to Canby?

Before making a final analysis of the general's work in the Second Military District, mention must be made of one other service that Canby performed while he was in command of the Carolinas. Except for the first month of his tour of duty there, he was supervisory assistant commissioner of the Freedmen's Bureau for the limits of his district.⁹⁴

It was only natural that this should have come to pass, for it was unquestionably desirable to have under the same direction the bureau officers and the other military personnel who were entrusted with the protection of persons and property by the acts of Congress.⁹⁵ The assistant commissioners for North and South Carolina were therefore ordered to report to Canby for instructions, although they continued to

⁹² General Order No. 145, July 24, 1868, Second Military District, General Orders, 1868.

⁹³ Quoted in the *Charleston Courier*, August 10, 1868. Also see the *Charleston Courier*, July 21, 1868.

⁹⁴ Commissioner-General O. O. Howard to Canby, November 29, 1867, Freedmen's Bureau, Letter Sent, 1867. The correct title of this War Department agency was the Bureau of Refugees, Freedmen, and Abandoned Lands.

⁹⁵ Commissioner-General O. O. Howard to Canby, October 23, 1867, Freedmen's Bureau, Letter Sent, 1867. Canby to Howard, November 4, 1867, Second Military District, Letters Sent, II, 248-249. Also see Caziarc to General N. A. Miles, October 23, 1867, Second Military District, Letters Sent, II, No. 1044, 1867.

communicate directly with bureau headquarters in Washington.

Canby did not have the time or the inclination to control the administrative details of the Carolina bureaux, hence that was left in the hands of the assistant commissioners.⁹⁶ He could not relieve or discharge any bureau agent,⁹⁷ but he could and did appoint the several post commanders in the district to be sub-assistant commissioners of the bureau within the limits of their stations.⁹⁸ That action created some consternation and jealousy, both on the part of General Nelson A. Miles, the assistant commissioner for North Carolina, and General R. K. Scott, his counterpart to the south. They feared that the commanding general was usurping their rightful duties.⁹⁹

In his role as supervisory assistant commissioner, Canby advised the assistant commissioners and granted or withheld authority in matters pertaining to the freedmen.¹⁰⁰ In particular, however, all during this period, he was especially concerned about the effect on the Carolinas of the failure of the crops and the fall in cotton prices.

It was partially on this account that Governor Orr had protested Canby's consolidation of the troops. He was fearful lest those thrown out of work by this unfortunate turn of events would be forced to plunder and steal in order to keep alive.¹⁰¹ The possibility of "grave disorders" arising from the fact that the Negroes were unable to find employment or procure food was undoubted, and Canby assured the governor that "serious consideration" had been given to the

⁹⁶ See Canby to Howard, November 4, 1867, Second Military District Letters Sent, II, 248-249.

⁹⁷ The assistant commissioners did that or it was done by Howard. See Howard to Canby, December 13, 1867, and Howard to General R. K. Scott, December 13, 1867, Freedmen's Bureau, Letter Sent, 1867.

⁹⁸ General Order No. 145, December 6, 1867, see Caziarc to Commanding Officer, Wilmington, N. C., December 17, 1867, Second Military District, Letters Sent, No. 1838, 1867. The replaced officers were volunteers and civilians who had been acting as agents. For an account of a bureau agent in Greenville, South Carolina, see John W. De Forest, *A Union Officer in Reconstruction* (New Haven, 1948).

⁹⁹ See Scott to Caziarc, December 10, 1867; Howard to Scott, December 13, 1867; and Howard to Miles, December 11, 1867, Freedmen's Bureau, Letter Sent, 1867. Scott became Governor of South Carolina in 1868.

¹⁰⁰ Second Military District, Letters Sent, 1867-1868, *passim*.

¹⁰¹ Orr to Canby, November 29 and December 18, 1867, Orr Letter Books, III, 238 and 328.

subject and that every precaution was being taken to guard against that danger.¹⁰² He had noticed the increase in pilfering too.¹⁰³

On December 20, 1867, Canby addressed a letter to the chief of staff inviting his attention to the destitution and suffering likely to occur during the coming months unless special ration issues were authorized. He estimated that 30,000 Negroes in the seaboard region of South Carolina alone (and that was the section hardest hit) were without jobs and were consequently without the means of support.

How to avert the difficulties which might be expected to stem from "a population idle from necessity, and impelled by hunger," was a question of the "gravest character."

If direct issues of food are made [Canby declared], we incur the risk of encouraging idleness, and its attendant vices, and of creating a proletarian population, that will look to the Government for relief, whenever misfortune, want of thrift, or idleness reduces them to want.

If, on the other hand, the government interfered in the employment process, Canby contended that the precedent thus established would be "almost as dangerous."

He believed that no gratuitous issues should be made except to the infirm and helpless, that relief should be given to the poor only and then in amounts necessary to prevent suffering. The issues, moreover, should be in the shape of advances, or loans, which were to be repaid when the next crop was gathered. Furthermore, he felt that these advances ought to be a lien against the crop, "not only to assure the Government against loss, but to impress upon those to whom they are made, habits of industry and thrift, by considerations of interest, as well as morals."

He wanted these advances to be made to the colored people who were cultivating lands for themselves, and only when this was impossible, to planters who, without some help, would be unable to give employment to the freedmen.

¹⁰² Canby to Chief of Staff, December 23, 1867, Second Military District Letters Sent, No. 1891, 1867. Also Canby to Orr, December 24, 1867, Canby Letters.

¹⁰³ Canby to Chief of Staff, December 23, 1867, Second Military District Letters Sent, No. 1891, 1867.

The prospect was gloomy and Canby was preparing for the worst. He was even thinking of establishing labor agencies to disseminate information and thus diminish the necessity of making either issues or advances.¹⁰⁴

This doleful account, and others like it, impressed the cabinet,¹⁰⁵ and Commissioner-General O. O. Howard, of the Freedmen's Bureau, was instructed to take action. Rations were issued to refugees and freedmen,¹⁰⁶ and, after February 27, 1868, the advances made to aid the depressed agricultural interests in South Carolina were considered liens upon the property of the persons to whom they were granted.¹⁰⁷ For those destitute individuals who were not included in the ministrations of the Freedmen's Bureau, Canby directed the poor wardens of the two states to apply to their relief the proceeds derived from licenses, forfeitures, and fines emanating from the sale of spirituous or intoxicating liquors.¹⁰⁸

On August 5, 1868, General Canby relinquished command of the troops in the late Second Military District and returned to Washington, there to resume command of the department he had left almost a year before.¹⁰⁹ He had experienced many vicissitudes during the months of constructive and unconstructive reconstruction in the Carolinas. Accused of radicalism by some, he was certainly not the most lenient

¹⁰⁴ Canby to Chief of Staff, December 20, 1867, Second Military District, Letters Sent, No. 1861, 1867.

¹⁰⁵ John T. Morse, Jr., (ed.), *Diary of Gideon Welles* (Boston, 1911), III, 245-246; and Theodore C. Pease and J. G. Randall, (eds.), *The Diary of Orville Hickman Browning* (Springfield, 1925 and 1933), II, 170. The entry of December 24, 1867 in both.

¹⁰⁶ In April, 1868, 7,357 rations were issued in North Carolina. The average number of persons assisted daily between September 1, 1867 and September 1, 1868 was 1,363. In South Carolina it was 1,944. See Report of the Commissioner of the Freedmen's Bureau for 1868 in "Report of the Secretary of War," *House Executive Document No. 1*, Fortieth Congress, Third Session, 1039 and 1027.

¹⁰⁷ Report of the Commissioners of the Freedmen's Bureau for 1868 in "Report of the Secretary of War," *House Executive Document, No. 2*, Fortieth Congress, Third Session, 1041. That was not done in North Carolina, see Miles to Caziarc, May 8, 1868, Freedmen's Bureau; Assistant Commissioner for North Carolina, Letters Sent, No. 778, 1868. Also see Appleton's *Annual Cyclopaedia, 1868*, 693.

¹⁰⁸ General Order No. 164, December 31, 1867, "General Orders-Reconstruction," 83. Also see Canby to Worth, March 26, 1868, Second Military District, Letters Sent, No. 1202, 1868.

¹⁰⁹ General Order No. 150, August 5, 1868, Second Military District, General Orders, 1868; and General Order No. 49, August 14, 1868, Department of Washington, General Orders, 1868, 56.

of the military governors. To say, as did John S. Reynolds, that his rule was "as brutish a tyranny as ever marked the course of any government whose agents and organs claimed it to be civilized," is going too far.¹¹⁰ The evidence belies it.

There is no denying that Canby had complete control over North and South Carolina.¹¹¹ As Major Birkhimer has pointed out in his treatise on military government and martial law, "It is difficult to conceive of a more rigid system of martial law" than that which Congress established in the spring and summer of 1867. For "completeness of design and efficacy of measures for carrying them into execution," nothing could surpass the Reconstruction acts.¹¹² Congressional Reconstruction was, as Governor Worth maintained, a "military despotism."

Having to function as the legislature, executive, and judiciary, all in one, was a great responsibility, but Canby did not shrink from the task. Acting as the agent of Congress, he was guided by the principle that the power conferred upon him by the Reconstruction acts was "limited and determined by the clear intent of those laws as indicated by the duties devolved upon the District Commanders and its exercise must be incident or necessary to the full and proper performance of their duties."¹¹³ When they were not, he "uniformly declined to ratify [the] ordinances or declarations" made by the conventions authorized under the law of March 23, 1867.¹¹⁴ In addition, he took "particular pains" not to know how the political parties" stood in his district.¹¹⁵

It was only natural for the conservative whites of North and South Carolina, like their brethren throughout the South, to complain and to make out the best case possible for themselves in the eyes of the rest of the nation. To that end they

¹¹⁰ Reynolds, *Reconstruction in South Carolina*, 98.

¹¹¹ The general of the army had supervisory control over his actions, and in cases where the death penalty was invoked, the President had to give his consent.

¹¹² Major William E. Birkhimer, *Military Government and Martial Law* (Kansas City, 1914), 482, 485.

¹¹³ Canby to B. F. Flanders, January 23, 1869, Fifth Military District, Letters Sent, No. 289, 1869.

¹¹⁴ Canby to William G. Hale, February 11, 1869, Fifth Military District, Letters Sent, No. 640, 1869.

¹¹⁵ See Canby's interview with the reporter of the *New York Sun*, quoted in the *Daily Richmond Whig*, September 2, 1869.

often perverted and misrepresented, the Reconstruction almost everything that had to do with Congressional Reconstruction in the worst imaginable light. Canby's every order was a perfect example of that stratagem.

It is understandable that they should have used every means at their command to try to throw off the yoke of Congressional Reconstruction as quickly as possible and to resume their former way of life. Since the methods of opposition available to them were extremely limited, they adopted the course of passive resistance. With hindsight, that procedure can be seen to have been undesirable, and to that extent they must therefore share the blame for what happened.

(General Canby had little to do with the original registration in the Second Military District. A few Carolinians may have been disfranchised on account of his interpretation of the law, but probably as many were enfranchised by the liberality with which he revised the registration lists. It will be recalled that an increase of 23,000 resulted after this occurred.¹¹⁶ Even so, by the vote recorded in each of the elections, first on the convention question and then on the ratification of the constitutions, it is evident that it was not he who kept the whites away from the polls. In South Carolina, in particular, it was they who refused to avail themselves of their opportunity. Instead, they preferred to remain quiescent, thus fostering the growth of a myth about how military "satraps" did the bidding of a Radical Congress and foisted off on them constitutions and officials they did not want, but about whom they could do nothing. It is a half-truth. In a moment of compassion, Jonathan Worth once referred to Canby and the other officers who were called upon to carry out the congressional program as "poor devils."¹¹⁷ How right he was! It was unfortunate for the army that its officer corps had to be made the instrument of radical designs.)

(Undoubtedly, Canby sympathized with the congressional policy toward the South, but he was not vindictive. No die-

¹¹⁶ Those who could have registered previously and had failed to do so account for most of this number. See *Canby Report, 1868*, 340-341.

¹¹⁷ Worth to John Kerr, January 1, 1868, Hamilton, *Worth Correspondence*, II, 1101.

hard radical of the Stevens-Sumner stripe would have ever countenanced an easing of the reconstruction code such as Canby proposed. If anything, Canby's rule was paternalistic, especially toward the Negro, and many of the measures that he initiated were beneficial to the Carolinas. Charles W. Ramsdell's opinion of Canby's administration in Texas is applicable also to his conduct of Carolina affairs. It was "vigorous and firm, but just."¹¹⁸

"Wise statesmanship" has been attributed to Canby;¹¹⁹ perhaps that is too high an evaluation. Integrity he had; conciliatory in spirit and with an understanding of the difficulties that lay before him, he tried to be a good military governor—whether he was or was not is a matter of personal opinion.

¹¹⁸ Charles W. Ramsdell, *Reconstruction in Texas* (New York, 1910), 266.

¹¹⁹ George W. Cullum, *Biographical Register of the Officers and Graduates of the United States Military Academy . . . 1802-1890* (Washington, 1891), II, 21.