

John Schofield As Military Director of Reconstruction in Virginia

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IN 1895 WHEN A BILL WAS BEFORE CONGRESS to revive the grade of Lieutenant General for the benefit of John M. Schofield, then commanding general of the United States Army, a former Confederate general, Senator Eppe Hunton from Virginia, supported Schofield unreservedly. Hunton stated on the Senate floor that as virtual governor of Virginia during Reconstruction Schofield had "left behind him none but friends." That this northern general who commanded in the Cavalier State during the "Dark and Bloody" days of Reconstruction received such praise from a former rebel officer is indeed interesting and prompts this examination of Schofield's service.²

As Commander of the XXIII Army Corps, Schofield had been with Sherman when the latter received Joe Johnston's surrender in North Carolina. Schofield was then left in command of the Department of North Carolina and confronted with the problem of restoring civil government. The thirty-three-year-old general soon demonstrated a moderate attitude toward the South. His military campaigns had afforded him an opportunity to observe the southern people, Negroes and whites, and he had become convinced that moderation was the only sane policy.

His views are set forth in a letter to General Grant on May 10, 1865. He would place the southern states under military government and declare existing state laws in force, excepting those which conflicted with Federal laws and the Constitution. Persons who took an amnesty oath would be permitted to elect members to a convention which should repudiate the doctrine of secession, abolish slavery, and restore the state to constitutional relations with the Federal government. He then would allow the people to approve or disapprove the action of the convention and at the same time elect state officers. If the required actions of the convention were approved the state would be readmitted. He would leave the conditions of suffrage up to the state, as guaranteed in the Constitution. He doubted both the wisdom and legality of attempting

² *Congressional Record*, 53 Cong., 3 sess., p. 1895.

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to force the Southern Negro suffrage. The Negroes were not prepared for suffrage. They could neither read nor write. They had no knowledge of law and government, and needed someone to assume responsibility for their present and future condition. The Negroes were not equal with the whites, and it would be necessary for the latter to take more time to educate them.

Schofield was relieved of Reconstruction responsibilities in North Carolina, however, and after a mission in Europe he was assigned in August, 1866, to command the Department of the Potomac, which included the state of Virginia. He soon discovered that he intended to be reasonable and impartial in his dealings with both races. However, after assuming command he required that there be a well-armed militia of necessity among the whites, based on their being possessors of arms while a considerable portion of the Negro population possessed weapons, many of them of a military nature. Since Negroes were granted the constitutional right to bear arms, the necessity of the whites could be increased. Schofield believed that by organizing volunteer militia companies throughout the state under authority of Governor Francis Pickens Westover, in these companies should be included to men who were loyal and well-disposed toward the freedmen. And the army should supply the arms and ammunition for these companies.

Neither did Schofield intend to favor whites in the absence of Negroes. His impartiality was evident in December, 1866, in the case of a killing of a freedman by Dr. James L. Watson, of Loudoun County. The Negro had run into Watson's vehicle whenupon the doctor shot him. The Loudoun County authorities acquitted Watson of the charge of murder, but Schofield apparently believed that the evidence did not justify the acquittal. He had Watson arrested and ordered him to be tried by a military commission.

Schofield may have had a similar purpose in mind when addressing a message to Congress on July 2, 1866, regarding the new Freedmen's Bureau Act. On April 2, 1866, President Johnson had proclaimed that the insurrection was over and that "standing armies, military police, and martial law, military tribunals, and the suspension of the privilege

¹ John M. Schofield, *Forty Six Years in the Army*, New York, 1897, p. 376.
² Schofield to Maj. George A. East, Aug. 17, 1866, Dept. of the Potomac, Files of the Adjutant General of the Army, War Department, Adjutant General's Office. The records of the Department of the Potomac are in the Adjutant General's Office and the First Military District, War Department, Adjutant General's Office, Washington, D.C.
³ Arthur A. Tappan, *Journal of the Proceedings of the National Convention*, Washington, 1833, p. 1.
⁴ See, for example, *The Freedmen's Bureau and the Negroes of the South*, by James M. Wilson, New York, 1866, p. 10.

of the writ of *habeas corpus*" were ended.⁸ This proclamation was supplemented by an executive order which forbade trial of citizens by military tribunals where civil courts were in existence. This order was in harmony with the Supreme Court decision of April 3, 1866, in the case of *ex parte Milligan*. But the Freedmen's Bureau Act gave the Bureau "military jurisdiction over all cases and questions" concerning the right of freedmen "to have full and equal benefit of all laws and proceedings, concerning personal liberty, [and] personal security."⁹ It was under the provision of this Act that Schofield proposed to try Dr. Watson before a military commission. Thus the case would test the constitutionality of the freedmen's bureau bill in light of the presidential order and the Supreme Court decision in *ex parte Milligan*.

When the military commission assembled it was served with a writ of *habeas corpus* from the circuit court of Richmond. Schofield refused to comply with the writ. Then President Johnson, upon the advice of Attorney General Henry Stanberry, concluded the case by dissolving the commission and discharging Watson from custody.¹⁰ Schofield's efforts to bring the murderer to justice thus came to naught.

When the state legislature convened on December 2, 1866, Schofield's interest, like that of most Virginians, turned to its proceedings. The most important question up for consideration was the ratification of the Fourteenth Amendment. Schofield believed the Amendment was unjust and unwise. He prepared a written argument on the subject which shows that he was especially opposed to section three. This section, he said, disqualified from office nearly everyone "whose social position, intellectual attainments and known moral character entitle him to the confidence of the people." He argued that it was

folly to attempt to bring back a revolted people by disfranchising all leaders in whom they trust and confide. These leaders if they will act in good faith [and Schofield believed a sufficient number would] can bring their people back to their allegiance. Without them it can not be done during the existing generation.¹¹

Schofield also objected to the national government prescribing qualifications for state offices or for voting in state elections. Section three was also unfair to Negroes, he said, since its effect would be to allow more of the "poor whites" to hold local office, thus putting the Negroes in the hands of their only real enemies in the South. Any thought of universal suffrage, without regard to intelligence or other qualifications, was absurd. Northern politicians might "theorize as much as [they] pleased about the criminality of the late rebellion," but, Schofield con-

⁸ James D. Richardson (comp.), *A Compilation of the Messages and Papers of the Presidents, 1789-1902* (New York, 1903), VI, 429-32.
⁹ Gen. Ord. 61, Aug. 9, 1866, A.G.O.
¹⁰ Hamilton J. Eckenrode, *The Political History of Virginia During the Reconstruction* (Baltimore, 1904), pp. 50-51.
¹¹ Schofield, "Reconstruction," Schofield mss. William M. Wherry, aide-de-camp to Schofield, in an attached statement, says the essay was written in the winter of 1866-67.

tended, it was "folly to suppose that the present generation of Southerners can be made to acknowledge or believe that it was anything more than a legitimate war for the settlement of a great political question left unsettled by the framers of the constitution. . . ." Therefore, looking at the matter in "a practical common sense light," the Federal government should not demand "repentance in sack cloth and ashes" when any show of such repentance would be "the purest hypocrisy."¹²

In spite of these objections, Schofield strongly urged that Virginia ratify the Amendment. He believed that it offered the best terms on which the state could be restored. He warned that failure to ratify probably would cause Congress to impose harsher conditions. In addition, he claimed that Congress could hardly refuse to recognize the existing state government if the Amendment were ratified. In fact, Schofield visited Washington and received assurances to that effect from leading Republicans in Congress.¹³ His advice was not heeded. The state senate voted unanimously against the Fourteenth Amendment and the margin in the House of Delegates was 74 to 1.¹⁴

When the Virginia legislature began its extra session on March 4, 1867, the accuracy of Schofield's prediction had become apparent. Two days earlier the United States Congress had passed over Johnson's veto the first of a series of measures prescribing the mode of action which southern states must follow to be readmitted to the Union. The Reconstruction Act of March 2, 1867, declared that except for Tennessee no legal governments existed in the former Confederate states. These states were to be apportioned into military districts until good order and "loyal and republican" governments could be established in them. The Act established five military districts, each under a general officer of the army who was to be the supreme authority in each state under his command in accordance with the laws of the United States. Each state was to hold a constitutional convention, with delegates to be elected by all male citizens of the state of voting age, regardless of color, except those disfranchised for participation in the rebellion. This convention should frame and the voters should ratify a constitution extending the franchise to those persons entitled to vote for delegates to the convention. The state legislature elected under the new constitution then should ratify the Fourteenth Amendment. The state might be readmitted to the Union after the Fourteenth Amendment had become law, and after Congress had approved these actions and had declared the state entitled to representation in Congress.¹⁵

On March 23, 1867, Congress passed a supplementary Reconstruc-

¹² *Ibid.*

¹³ Schofield, *Forty Six Years*, pp. 394-395.

¹⁴ William T. Alderson, "The Influence of Military Rule and the Freedman's Bureau on Reconstruction in Virginia, 1865-1870," (Ph.D. dissertation, Vanderbilt University, 1952), pp. 133-134.

¹⁵ *The Statutes at Large of the United States 1789-1873* (Boston, 1846-73), XIV, 428-429. Act of Mar. 2, 1867. Hereafter cited as *U.S. Statutes at Large*.

tion Act ordering the district commander to direct the entire process of state action in carrying out the provisions of the first Act. He was to establish voting districts, supervise registration of voters, conduct an election on the question of calling a constitutional convention and choosing delegates to it, and submit the proposed constitution to the voters for ratification or rejection.¹⁶

President Johnson vetoed both bills, attacking the infringement upon state powers and the establishment of military government as unconstitutional and dangerous. He denied the right of Congress to grant Negro suffrage in the South and claimed that the nature of the acts indicated that such was their true intent and purpose. He also denied the constitutionality of imposing military government on the southern states in time of peace and warned that the relatively unlimited authority entrusted to the military commanders would be a real danger to the people of these states. Johnson asserted that this authority made the military commander "an absolute monarch."¹⁷ Congress passed both bills over the President's veto.

As Johnson indicated, the far-reaching authority entrusted to military commanders meant that mildness or harshness, justice or injustice, would largely depend on the character of the commander. Virginia was fortunate to have Schofield as her commander. He regarded the Reconstruction Acts as a terrible oppression which was not "appreciated by even the most enlightened and conservative people of the North," and could only be realized by "those who actually suffered the baneful effects of the unrestrained working of those laws."¹⁸ Schofield's moderate attitude and just treatment of the citizens had already made a favorable impression on Virginians who only a few months before had complained bitterly about the actions of his predecessor, General Alfred H. Terry. In fact, the Virginia state legislature petitioned the President to appoint Schofield as district commander because of the "great impartiality" with which he had "discharged his duties . . . toward all classes."¹⁹

Schofield officially assumed command of the First Military District on March 13, 1867.²⁰ His first general order did much to gain the respect and confidence of the people. Officers of the existing provisional government were to continue performing their duties, unless otherwise directed in individual cases, until their successors were duly elected and qualified under the Reconstruction Act of March 2, 1867. The order further stated:

It is desirable that the military power conferred by the before mentioned act [of March 2, 1867], be exercised only so far as may be necessary to accomplish the ob-

¹⁶ *Ibid.*, XV, 2-5. Act of Mar. 23, 1867.

¹⁷ Richardson, *Messages and Papers*, VI, 498-511, 531-535.

¹⁸ Schofield, *Forty Six Years*, pp. 395-396.

¹⁹ Francis Peirpoint to Andrew Johnson, forwarding a petition of the Virginia General Assembly, Mar. 8, 1867, Johnson mss, Library of Congress.

²⁰ Gen. Ord. 10, Mar. 11, 1867, A.G.O.; Gen. Ord. 1, Mar. 13, 1867, 1st Mil. Dist.

jects for which that power was conferred, and the undersigned appeals to the people of Virginia, and especially to Magistrates and other civil officers, to render the necessity for the exercise of this power as slight as possible, by strict obedience to the laws, and by impartial administration of justice to all classes.²¹

"In common with the public journals in every portion of the State," responded the *Lexington Gazette*, "we express our decided gratification, that if we are to be subjected to military rule, we are at least to have the consolation of being governed by a gentleman. . . ." ²² Similar statements were expressed by the *Lynchburg Virginian*, the *Norfolk Journal*, the *Richmond Whig*, and the *Abingdon Virginian*. Available evidence seems to indicate that these sentiments were shared by most conservatives in the state.²³

But the satisfaction over Schofield's appointment did not remove the outraged feelings of most white Virginians over the Reconstruction Acts. The *Lynchburg Virginian* declared that it preferred a military dictator over the entire country rather than rule "by that mob at Washington." The *Staunton Spectator* considered Congress' action with respect to Virginia parallel to rape, and it advocated that Virginia should resist the outrage and retain her honor, rather than submit and become party to the act. And the *Charlottesville Chronicle* said that the South, now that the war was over, was asked "to love, to kiss the hand that wielded the lash," and the penalty for not doing so was "to be ruled by the blacks."²⁴ Many newspapers advised conforming to the Reconstruction Acts, however, as there seemed no reasonable alternative. Negro suffrage was an outrageous measure for many to accept and conservative whites feared that the freedmen's vote would be controlled by radicals and adventurers. But suffrage for the former slaves was regarded as a fixed fact.²⁵

Several times Schofield invoked his authority as commanding general to preserve the peace or to insure against violations of the Reconstruction Acts. When Negro votes were rejected at a city election in Alexandria on March 5, he issued orders prohibiting any further elections under the provisional government until registration was completed.²⁶

Schofield also sought to prevent inciting disorder through speeches or newspaper editorials. Schofield warned the *Richmond Times* that he would not tolerate any more of its articles which fostered enmity, created disorder and led to violence. He sustained the action of General O. B. Wilcox, sub-district commander at Lynchburg, who forbade a public lecture by H. Rives Pollard, a man who had openly declared his hostility to the national government. But he also told Wilcox that he

²¹ Gen. Ord. 1, Mar. 13, 1867, 1st Mil. Dist.

²² Quoted in Alderson, "Military Rule in Virginia," p. 151.

²³ *Ibid.*, pp. 150-151.

²⁴ *Ibid.*, p. 152.

²⁵ *Ibid.*, p. 153.

²⁶ Schofield to John C. Underwood, Mar. 16, 1867, 1st. Mil. Dist. Eckenrode, *Virginia During Reconstruction*, pp. 65-66.

would prefer not to interfere with freedom of speech or the press. He desired rather to wait until an offense was committed and then to punish the offender.²⁷

A riot occurred in Richmond in May which was quelled only by intervention of the military. When the *Richmond Dispatch* reported that a Massachusetts man named Jedekish K. Hayward had delivered incendiary speeches tending to incite the Negroes to riot, Schofield summoned the reporter, ascertained the truth of the report, arrested and turned Hayward over to Mayor Mayo for trial and punishment. As an additional preventive measure he ordered the Negro "Lincoln Mounted Guard" to cease parading or drilling under arms. A detachment of Federal cavalry was assigned to patrol the city night and day.²⁸

Meanwhile, Schofield was busy preparing for the approaching registration and election. Existing state office holders continued to exercise the duties of those offices unless removed for disloyalty, misdemeanor or by death. When vacancies did occur Schofield appointed someone to temporarily fill the position. He left control of civil affairs to the people, if at all possible, by selecting replacements on the concurrent recommendations of county courts or city councils and the president of the board of registration for the county or city. These appointees had to swear that they had not been disfranchised for participating in the war and would not be denied the right to hold office by the proposed Fourteenth Amendment.²⁹ Such appointees were to be replaced, as soon as new office holders were elected under the provisions of the Reconstruction Acts.

On April 2, 1867, Schofield began the process of appointing three-man boards of registration for Virginia's counties and cities. He designated a five-man panel of army officers to select and recommend persons for appointment to the boards. An officer of the army or bureau was to be selected as a member of each board, wherever possible, and the remaining two members were to be selected in order of preference from the following groups: honorably discharged United States Army officers, loyal citizens of the county or city for which they were selected, or other loyal citizens having the proper qualifications. Schofield insisted that the men appointed must be of unwavering loyalty to the Union, of high character, impartial judgment, and possess the confidence of the people.³⁰ This order is important because it gave preference for appointment first to officers, past and present, of the Union Army, second to the native loyal whites, and last of all to those who might be "carpetbaggers." All but twenty-seven who were appointed presidents of the boards of registration in the ninety-nine counties, and the

²⁷ Alderson, "Military Rule in Virginia," p. 154.

²⁸ *Ibid.*, p. 155.

²⁹ Gen. Order 9, Apr. 5, 1867, 1st Mil. Dist.; Gen. Ord. 16, Apr. 20, 1867, 1st Mil. Dist.

³⁰ Spec. Ord. 16, Apr. 2, 1867, 1st Mil. Dist.

cities of Richmond, Petersburg, and Norfolk, were army officers. And three of the non-army appointees were civilian agents or former agents of the Freedmen's Bureau.⁸¹ The presidents, aided by their two subordinates, directed the registration at the county seat and exercised supervisory jurisdiction over subordinate boards of registration in each magisterial district.

Registration began in late June, 1867. In an effort to insure a fair and just registration Schofield provided that three white and three Negro voters in each election district might serve as challengers for the purpose of detecting any person who fraudulently attempted to register. The names of voters, white and Negro, were entered on separate lists, as were the names of persons registered after challenge and persons denied the right to register. In the latter two cases Schofield required that the cause of challenge and the grounds for refusal of registration should also be entered on the lists.⁸²

In compliance with the Reconstruction Act of March 23, 1867, Schofield declared that all male citizens of the United States twenty-one years of age or older, who were residents of the state for at least one year, were entitled to vote unless they were disfranchised for felony or for participation in the rebellion. All persons were disfranchised who at any time had served as members of Congress, as civil or military officers of the United States, or in any official capacity which had required taking an oath to support the Constitution of the United States, as legislative, executive or judicial officers of a state, and afterwards had participated in the rebellion. Schofield drew up a specific list of executive and judicial officers who would be disfranchised by the law.⁸³

Great political excitement was expected as Negroes and whites, radicals and conservatives, campaigned and voted on the heated issues. Schofield therefore took measures to preserve peace and maintain order if the necessity arose. He issued an order designed to protect the personal and property rights of all persons "in cases where the civil authorities may fail, from whatever cause, to give such protection, and to insure the prompt suppression of insurrection, disorder and violence." The order provided for the appointment of army officers and Freedmen's Bureau officials as military commissioners in the state's seven sub-districts. To ensure that the commissioner's orders would be complied with, police officers, sheriffs, constables, and other law enforcement officials were required to obey their orders. The commissioners were also given judicial powers in the counties and cities. Civil trials were preferred, but if the commissioner believed such would result in a miscarriage of justice, he was empowered, subject to Schofield's approval, to call upon a military commission. Civil officers were ordered

⁸¹ Gen. Ord. 15, Apr. 20, 1867, 1st Mil. Dist.

⁸² Gen. Ord. 28, Mar. [May] 13, 1867, 1st Mil. Dist.

⁸³ U.S. Statutes at Large, XV, 14-16. Act of July 19, 1867. Gen. Order 47, July 26, 1867, 1st Mil. Dist.

to continue to discharge the functions of their offices and were assured that they would not be superseded except in cases of necessity.⁸⁴ Thus, when Schofield began the registration process, he possessed almost absolute control over the state of Virginia.

For purposes of Army administration and command, Schofield divided the state into seven sub-districts, each of which had seven or eight military commissioners, with each commissioner responsible for one or more counties.⁸⁵ Through the military commissioners and bureau agents he exercised supreme judicial power, while his right to remove from office any state officers and replace them with men of his choice gave him complete executive power. He also exercised supreme legislative power through his right to suspend any law and issue any new regulations which he considered necessary for the accomplishment of his work.

Schofield exercised his power as little as possible and in the best interests of the state. He permitted the civil authorities to continue to function with little hindrance, appointed men to office who, in most cases, were recommended by state officials and could, at the same time, take the iron-clad oath.⁸⁶ And he reported that "No case arose in Virginia in which it was found necessary, in my opinion, to supersede the civil authorities in the administration of justice. Not a single citizen of that state was tried by military commission."⁸⁷

The registration seems to have been conducted in an impartial and orderly manner. Relatively few complaints of injustices to either whites or Negroes were received by the registration boards.⁸⁸ The official returns listed 227,376 voters in the state, 121,271 of whom were whites and 106,105 Negroes.⁸⁹ Comparing these figures with the tax list for 1867, Schofield reported that 17,649 more Negroes had registered than were contained on the tax list. This fact prompted him to order a census conducted by a board of army officers in a Richmond ward where the disparity was greatest. The registration was found to be "very nearly correct" while the tax list was "quite erroneous."⁹⁰ Schofield was convinced that nearly all the people who were entitled to register had done so.

Attention was soon focused on election day (designated by Schofield for October 22) when the voters would decide for or against holding a constitutional convention, and elect delegates to the convention if it was approved. Voting was to be by ballot and conducted at the same places and by the same army officers, bureau agents and civilians who

⁸⁴ Gen. Ord. 31, May 28, 1867, 1st Mil. Dist.

⁸⁵ Gen. Ord. 33, June 3, 1867, 1st Mil. Dist.

⁸⁶ Gen. Ord. 9, Apr. 5, 1867, 1st Mil. Dist.; Gen. Ord. 48, July 26, 1867, 1st Mil. Dist.

⁸⁷ Schofield, *Forty Six Years*, p. 399.

⁸⁸ Alderson, "Military Rule in Virginia," p. 168.

⁸⁹ Memorandum, May 10, 1869, 1st Mil. Dist.

⁹⁰ Schofield to Adj. Gen. of the Army, Dec. 13, 1867, 1st Mil. Dist.

had conducted the registration.⁴¹ Separate ballot boxes were to be maintained for whites and Negroes. All sales of liquor were to be suspended on election day, and civil police officers were required to maintain good order. Any person who attempted to prevent any qualified voter from casting his ballot, whether by fraud, force, or intimidation, was to be tried for the offence by a military commissioner, and registering officers were authorized to exercise all the powers of a military commissioner during the time of election and counting of ballots. Registering officers and their assistants were to count the returns, certify the results of the election, and turn over all books, papers, and ballots to the president of the board of registration for the county or city. Having tallied the reports, the latter would deposit the ballots in a safe place, and forward his tally, along with all rejected ballots, to the commanding general. Schofield warned that if ballot boxes or poll books should be lost or destroyed a new election would be held in the district or ward affected, but he expressed the hope that there would be "full and free exercise of the elective franchise."⁴²

Schofield provided that 105 delegates should be elected to the constitutional convention, or one for every 2,061 electors. His apportionment gave forty-seven delegates to election districts with white majorities and fifty-eight to districts having Negro majorities. Since there was a white majority in the state, this action led to charges that he had gerrymandered the state in favor of the radicals. But his explanation for this apportionment disproves such an assertion. There were fifty-two counties and cities with white majorities, Schofield said, and fifty with Negro majorities. In the former there were only 90,555 voters, both white and colored, while in the latter there were 125,895. On that basis, since the number of electors entitled to elect one delegate was 2,061, the white counties would have elected forty-four delegates and the Negro counties would have elected sixty-one.⁴³ Apportionment by the congressional districts of 1860 would have resulted in thirty-four delegates from white counties and seventy-one from Negro counties. By congressional districts of the provisional government the numbers would have been thirty-two and seventy-three respectively. By following the state senatorial districts as a basis of apportionment, the number of delegates from Negro and white districts would have been the same as by Schofield's apportionment, but many large fractions would have been unrepresented and many districts would have had greater representation than they were strictly entitled to. Therefore, Schofield apportioned delegates on a county or city basis, and when necessary, combined several counties and cities into election districts when each, individually, was entitled to fractional representation, but lacked

⁴¹ Gen. Ord. 65, Sept. 12, 1867, 1st Mil. Dist.

⁴² Gen. Order 6, Oct. 4, 1867, 1st Mil. Dist.

⁴³ This was due to the fact that the western counties had large white majorities while the more heavily populated eastern counties had very small Negro majorities.

a large enough fraction to justify its having another delegate.⁴⁴ Schofield's plan of apportionment seems to have been as fair as any that could have been worked out, and was at least as favorable to the whites as any existing method of apportionment—obviously more favorable than some.

On October 22, the radicals registered a decisive victory, approving the holding of the convention by a vote of 107,342 to 61,887, and electing seventy-three delegates to the conservatives' thirty-two.⁴⁵ Whites could hardly blame the result upon Schofield's reapportionment. Of 121,271 registered white voters, more than one-third, or 44,017, failed to vote, while only 12,687 of 106,105 registered Negroes neglected to vote. And only 638 freedmen in the entire state voted against the convention.⁴⁶

Charming the Negroes with glowing promises of social equality, confiscation and free land, the extreme radicals had forged a tightly knit, compact party of Negroes, carpetbaggers, and radical white Virginians. The extent and thoroughness of the organization was not realized by most conservatives, and they had no single political leader or any fixed political policy—except opposition to radicalism. The conservatives were divided over whether to vote for the convention, whether to ally with political parties of the North, and whether to oppose or submit to the congressional plan of Reconstruction.⁴⁷ That the radicals won is hardly surprising.

Feelings ran high in Richmond where Schofield allowed the polls in certain wards to reopen an extra day in order to poll a complete vote.⁴⁸ He was accused of doing so in order to insure a radical victory. The Richmond *Southern Opinion*, perhaps the most "unreconstructed" paper in Virginia, denounced him for this "marvellous, stupendous and utterly unparalleled atrocity," and thanked him for "yet another lesson in that intricate infinite maze of confounded villainy with stealth—the Yankee character."⁴⁹ The defeated conservative candidates also protested against keeping the polls open, and charged voting frauds.

Schofield defended himself well, saying that the purpose of keeping the polls open was to record the fullest possible vote. His critics' position, he continued, seemed to be taken on the erroneous premise that the "party is entitled to the victory which can poll the greatest number of votes in a given number of hours." He also denied that any voting frauds had taken place.⁵⁰ It is highly unlikely that Schofield's action

⁴⁴ Alderson, "Military Rule in Virginia," p. 183.

⁴⁵ *Ibid.*, p. 184.

⁴⁶ Schofield, "Personnel of the Virginia Convention," Schofield mss.

⁴⁷ Alderson, "Military Rule in Virginia," pp. 169-180.

⁴⁸ Gen. Ord. 65, Sept. 12, 1867, 1st Mil. Dist.; Spec. Ord. 154, Oct. 23, 1867, 1st Mil. Dist.; Richmond *Whig*, Oct. 25, 1867.

⁴⁹ Richmond *Southern Opinion*, Oct. 26, Nov. 2, 1867, quoted in Alderson, "Military Rule in Virginia," pp. 184-185.

⁵⁰ Schofield to Thomas J. Evans and others, Nov. 7, 1867, 1st Mil. Dist.

tem of free public schools—the first such provision in Virginia's history—for equal and uniform taxation on property, and for a tax on incomes exceeding \$600 per year.⁶⁰

The commendable provisions of the constitution do not negate the fact that it represented an attempt to establish Negro and radical supremacy in the state. Its office-holding and disfranchisement provisions would make it very difficult in many places to carry on the government efficiently. Negro enfranchisement, coupled with disfranchisement of many whites and restriction of office holding to persons who could take the iron-clad oath, would mean that many state offices would be filled by carpetbaggers, unqualified Negroes, and scalawags. Well aware of the difficulties which the new constitution could create Schofield addressed the convention and warned the delegates that if the proscriptive measures were carried out, many counties would be without a sufficient number of men eligible for and capable of filling the offices. They would probably result in the defeat of the constitution when submitted for ratification.⁶¹ Schofield's words were in vain. In a letter to Grant he reported that his speech

seemed not to have the slightest influence. . . . The same baneful influence that secured the election of a majority of ignorant blacks and equally ignorant or unprincipled whites to the convention, has proved sufficient to hold them firmly to their original purpose. They could only hope to obtain office by disqualifying everybody in the state who is capable of discharging official duties, and all else . . . was of comparatively slight importance.⁶²

Thus, "villifying General Schofield for giving them good advice and driving them from the treasury which they wished to empty," said the *Richmond Enquirer*, "the Negroes and carpet-baggers . . . adjourned."⁶³

Schofield's efforts in the latter case probably saved the state a large sum of money. The constitutional convention soon used up the \$100,000 which had been appropriated for its expenses by the state legislature in March, 1867. It then passed an ordinance to levy a tax on the people for another \$100,000. Since the Reconstruction Act of March 23, 1867, placed no limit on the amount to be collected in taxes levied by the convention, Schofield feared an endless taxation process for as long as the convention stayed in session. Determined to prevent such a drain on the state treasury, he told General Grant: "The sum already expended ought to have been ample—more than was necessary—to defray all their expenses. . . . They ought in my opinion to be debarred from the exercise of the authority given them by Congress to levy and collect a special tax."⁶⁴ With Grant's approval, Schofield negotiated a loan to pay

⁶⁰ Sen. Exec. Doc., 40 Cong., 2 sess., No. 54 (Serial 1317), 1-26.

⁶¹ *Richmond Whig*, Apr. 21, 1868, quoted in Alderson, "Military Rule in Virginia," p. 204.

⁶² Schofield to Grant, Apr. 18, 1868. Schofield mss.

⁶³ *Richmond Enquirer*, Apr. 23, 1868, quoted in Alderson, "Military Rule in Virginia," p. 204.

⁶⁴ Schofield to Grant, Mar. 21, 1868. 1st Mil. Dist.

convention expenses up to April 6, 1868. It seems likely that Schofield's action helped bring the convention to a conclusion sooner than would have been the case otherwise.

Besides the proscriptive measures of the constitution, Schofield also objected to the county organization section which provided for the election of city, town, and county officers. In more than half of these places Negroes were in the majority. In view of "their present temper," he said, they could be expected to elect "persons of their race who can neither read nor write to fill the majority of those offices."⁶⁵

If Schofield could not persuade the convention to modify the constitution perhaps he could prevent it from going into effect. The wisest course, he believed, was not to submit it to the people for ratification at all, thus letting "the thing fall and die where it is." Then, he wrote Grant, he could go on putting Union men in office and reorganize the provisional government upon a loyal basis, "until the friends of reconstruction get control of the state." Then a convention could be called which would frame a constitution fit to be ratified by the people, and approved by Congress and the country at large. The Republican party, he continued, could only be damaged by endorsing such a constitution as that framed by the recent convention. It would be necessary, however, for Congress to modify the iron-clad oath and provide greater latitude for the selection of officers before another constitution could be framed.⁶⁶

Since neither Congress nor the constitutional convention had appropriated money to pay the expenses of an election on the proposed constitution Schofield told Grant that he intended to postpone the election until Congress made an appropriation. As Congress knew the contents of the constitution, Schofield said he would regard congressional action in appropriating money, or failure to act, as indicating his duty in the matter.⁶⁷ Apparently Grant and the Republican leaders approved his plan to circumvent the constitution. At any rate, on April 24, 1868, Schofield issued an order suspending the election until further notice.⁶⁸

A number of newspaper editors believed that the constitution would have been defeated if submitted to a vote, while Schofield feared it would have been adopted. However, his motives were misinterpreted. The editors charged that he had acted so that separate votes could be taken on the objectionable provisions and the constitution would thus be approved.⁶⁹ He did later recommend that the constitution be sub-

⁶⁵ Schofield to Grant, Apr. 19, 1868, Schofield mss.

⁶⁶ Schofield to Grant, Apr. 18, 1868, *ibid.*

⁶⁷ *Ibid.*

⁶⁸ Schofield to the People of Virginia, Apr. 24, 1868, 1st Mil. Dist.

⁶⁹ *Richmond Enquirer*, Apr. 30, 1868; *Harrisonburg Rockingham Register*, Apr. 30, 1868; *Charlottesville Chronicle*, May 2, 1868; *Lexington Gazette*, May 6, 1868; *Harrisonburg Old Commonwealth*, Apr. 29, May 6, 1868; *Richmond Whig*, Apr.

mitted to the electorate with provision for a separate vote on the section requiring office holders to take the iron-clad oath. But his correspondence indicates that this action was primarily designed to defeat the iron-clad oath and save the state from the results of adopting the unpurged constitution, rather than to insure that the constitution would be adopted. He himself said that he would have preferred drawing up a new constitution. He recommended a separate vote on the test oath provision because it was the maximum concession which friends of the constitution would accept, while further concessions would "produce discord among the friends of reconstruction."⁷⁰

It should be remembered that Schofield's primary responsibility as district commander was to enforce the Congressional Reconstruction Acts. These directed that "loyal and republican" state governments must be established and Congress was to decide when such governments existed. Schofield realized that to an overwhelmingly Republican Congress Republicanism was as much a criteria for readmission as loyalty to the Union. Therefore if he were going to secure Virginia's readmission to the Union he would have to sacrifice his own wishes in order to secure the greatest possible support from the friends of Reconstruction. He personally disliked the Reconstruction Acts and would have liked to expurgate other provisions of the constitution, but this was not within his power.

Meanwhile he was facing another difficult problem—what to do about elections for state, city, and municipal offices. On April 2, 1867, he had issued an order suspending all elections for these offices until the registration had been completed.⁷¹ These offices were greatly desired by the radicals and now pressure was being exerted to get Schofield to remove the incumbents and replace them with "loyal" men. But Schofield was convinced that most of these offices could not be filled by competent persons. The men who were most zealous for Negro suffrage and most clamorous for offices, he wrote to Grant, were in many cases "entirely unfit for the offices they aspire to." Schofield decided to appoint Republicans to the vacant offices in "all cases where respectable and competent persons of that party could be found." "If by this course I incidentally give strength and influence to the respectable Republicans as against the lower class of men who have acquired control over the mass of colored voters," he continued, "I am sure I shall thereby render the country an important service and not be justly subject to the charge of partisanship."⁷²

He then asked Grant's opinion on whether he should remove from office the disfranchised persons whose terms had not expired. Grant approved Schofield's plans and suggested that no removals be made

28, 1868; *Norfolk Journal*, Apr. 27, 1868; cited in Alderson, "Military Rule in Virginia," p. 211.

⁷⁰ Schofield to Grant, May 6, 1868, Schofield mss.

⁷¹ Gen. Ord. 33, Mar. 30, 1868, 1st Mil. Dist.

⁷² Schofield to Grant, Apr. 2, 1868, Schofield mss.

"except for cause" until the vacant offices had been filled. It would then be possible to better judge the wisdom of further removals and appointments, "and also as to whether they are required to a proper administration of the reconstruction acts."⁷³

On the basis of this ruling, Schofield, on April 4, 1868, made what was probably his most important appointment to office. He declared the office of governor vacant by reason of the expiration of Francis Peirpoint's term of office, and appointed Henry H. Wells, a native of New York, former member of the Michigan legislature, and recent general in the Union Army, as governor of Virginia.⁷⁴ Schofield had been considering removing Peirpoint for several months. He advised Grant that by his official conduct and influence, Peirpoint had done more "to prevent the proper execution of the acts of Congress than all the disfranchised office-holders in Virginia combined."⁷⁵ Recently the governor had made extensive use of his pardoning powers in freeing Negroes who had been convicted by state courts—and this while Schofield's military commissioners were supervising the actions of the civil courts.

Peirpoint's term of office had expired on January 1, 1868, and under the state constitution he was ineligible to succeed himself. Schofield had recommended that Grant issue an order appointing Schofield to discharge the duties of governor. This would relieve the state of the burden of the governor's salary, and relieve Schofield of the necessity of making an appointment to the office of governor that likely would not "be acceptable to any considerable proportion of any party."⁷⁶ Schofield's recommendation was not followed and Peirpoint continued to hold office after the expiration of his term. By April, 1868, Schofield was convinced that Peirpoint was using his official position "for no other apparent purpose than to secure his renomination and election" to the office of governor in spite of the constitutional prohibition against successive terms. Therefore, Schofield wrote Grant that he believed it was his duty "to appoint a successor who is eligible under the laws of the state . . . , who will be more acceptable to the people and who can and will aid us instead of being a dead weight or worse in the work of reconstruction."⁷⁷

The appointment was first offered to Judge Alexander Rives, a native Virginian and prominent Republican who, Schofield said, "would have been invaluable to the Union cause." But Rives preferred to retain his judgeship.⁷⁸ Therefore, after consulting with leading Republicans, Schofield proposed to Grant that Wells be appointed.⁷⁹ Grant approved and Wells became governor.

⁷³ Grant to Schofield, Apr. 3, 1868, *ibid.*

⁷⁴ *Ibid.*; Gen. Ord. 36, Apr. 4, 1868, 1st Mil. Dist.

⁷⁵ Schofield to Grant, Apr. 2, 1868, Schofield mss.

⁷⁶ Schofield to Grant, Dec., 1867, *ibid.*

⁷⁷ Schofield to Grant, Apr. 2, 1868, *ibid.*

⁷⁸ Schofield to Grant, Apr. 24, 1868, *ibid.*

⁷⁹ Schofield to Grant, Apr. 2, 1868, *ibid.*

Peirpoint did not give up without a struggle, however. Charging that Schofield's action was made "in the interest of the rebels" to defeat the adoption of the constitution, the ex-governor tried to get Grant to countermand Schofield's order.⁸⁰ Grant refused, but Peirpoint continued his efforts to reclaim the office. He accused Schofield of subverting the Reconstruction laws to give state offices to Confederates and outsiders. This was especially true, claimed Peirpoint, in Schofield's appointment of tobacco inspectors. There were to be two inspectors at each warehouse and these could nominate deputy inspectors. Inspectors were required to take the test oath and therefore Schofield had appointed only one inspector at each warehouse, allowing this inspector to appoint deputies who would do the work of the second inspector, but would not be required, as subordinate officers, to take the test oath.⁸¹

Schofield did make appointments just as Peirpoint stated,⁸² but it hardly seems likely that he was acting to aid the "rebels." It seems much more reasonable to conclude that he did so in the interest of good government and to keep such offices from falling into the hands of extreme radicals. Besides, Grant ordered an investigation made of accusations that Schofield was selling out to conservatives, and Schofield was exonerated.⁸³

Peirpoint also charged that Schofield, with his conservative friends, was discriminating against Virginia Unionists and placing "strangers [carpetbaggers] in all the important offices, State and Federal."⁸⁴ These charges were repeated by extreme radicals who, though pleased by Peirpoint's removal, were displeased that a man of their own persuasion was not appointed in his place.

Peirpoint's charge that Schofield's action was a deliberate attempt to favor carpetbaggers over Virginia Republicans has persisted in several accounts of the Reconstruction period in Virginia.⁸⁵ But such a conclusion is not adequately supported by the facts. While it is true that Governor Wells was not a Virginian, and that many of Schofield's appointments did go to so-called "carpetbaggers," it is equally true that Schofield's correspondence with Grant about appointments to office, particularly Wells' appointment, makes it clear that the basic consideration was "respectable" or moderate Republicanism plus the ability to take the test oath and perform the duties of office. The fact that the governor's office was first offered to Judge Rives—who was preferred by Schofield—and that it was only after Rives refused the position that it

⁸⁰ Grant to Schofield, Apr. 6, 1868, *ibid.*

⁸¹ Francis Peirpoint to Grant, Apr. 23, 1868, *ibid.*

⁸² Gen. Ord. 15, Feb. 14, 1868, 1st Mil. Dist.

⁸³ Alderson, "Military Rule in Virginia," p. 220.

⁸⁴ Francis Peirpoint to Grant, Apr. 23, 1868, Schofield mss.

⁸⁵ Eckenrode, *Virginia During Reconstruction*, p. 105; W. Asbury Christian, *Richmond Her Past and Present* (L. H. Jenkins, 1912), p. 300; Nelson M. Blake, *William Mahone of Virginia, Soldier and Political Insurgent* (Richmond, 1935), p. 99.

was awarded to Wells, seems to disprove the charge that Wells' appointment was part of Schofield's "carpetbagging" plans. And, of course, the fact that Wells later came to uphold the extreme radical position does not negate the fact that at the time of his appointment he was widely recognized as a moderate Republican.⁸⁶

The appointment of Wells was the first of a long list of military appointments to replace incumbent state officials. By May 15, 1868, Schofield reported that he had already appointed nearly five hundred officers and would have appointed more if qualified persons could have been found. But now the Fourteenth Amendment was about to become law. All office holders disqualified under its provisions were to be removed immediately from office and all men appointed to fill the vacated offices would have to take the iron-clad oath. Schofield wrote Grant that he already had appointed nearly all available men who were competent to fill these offices, and the Fourteenth Amendment would create several thousand more vacancies. It appeared to Schofield that these offices would have to remain vacant unless Congress made some special provision to avert the situation.⁸⁷

But Schofield was spared solving this problem when he was confirmed as the new Secretary of War following the failure of the impeachment proceedings against President Johnson. On June 1, 1868, he was relieved as Commander of the First Military District and assumed the office of Secretary. He had demonstrated an outstanding administrative ability as district commander, creating a systematic and well developed administrative plan. The hallmark of his success was his realistic good sense, together with attention to avoiding mistakes, and an ability to remain above personal prejudices.

He was motivated by an understanding and sympathy for the defeated southern people. He desired to prepare Virginia for readmission to the Union as soon as possible, on the best terms possible, and with a minimum of hardship. There is no evidence that he was vindictive. He believed that many former Confederate civil and military officials would faithfully serve the Union (and if some of them did not, the United States Army would be present to deal with them). Without the services of such men many offices would inevitably be filled by the untrained, incapable, or self-seeking.

While it is true that Schofield opposed universal male Negro suffrage, there is no evidence that would warrant the conclusion that he was a racist. His opposition was partially on Constitutional grounds. And he was convinced that most Negroes, being illiterate, were not prepared to accept the suffrage responsibility. He believed that granting immediate, unqualified Negro suffrage could only be detrimental. In his opinion, the Negroes were incapable of exercising the new privilege wisely, and the disfranchised whites, observing their failures, would

⁸⁶ Alderson, "Military Rule in Virginia," p. 222.

⁸⁷ Schofield to Grant, May 15, 1868, 1st Mil. Dist.

develop a bitterness which, in the long run, would create a more difficult situation in race relations.

Though convinced that the civil authorities in Washington were pursuing an unfortunate course in these matters, Schofield also believed that the military should be subordinate to civil authority. He would use such influence as he possessed to change what he considered an unwise policy, or soften its blow, but as a soldier it was his duty to carry out the national policy defined by the civilian heads of government.

As military commander of the First District, Schofield was industrious, reasonable and properly motivated. In a difficult situation, he performed admirably.

