

why strike at the men who, of all others, are most influential and can bring about the end which we all have at heart? That my friend from Indiana properly construes the obligation of that oath I have no doubt. I think every lawyer in the Senate would say, every statesman within the sound of my voice would say, that for no act done after the termination of the official term of the officer, inconsistent with the Constitution of the United States, by him who had been the incumbent of the office, could he be indicted for perjury; and if he could not be indicted for perjury, it could only be because the legal obligation of the oath—I am not speaking now of the moral obligation—expired at the termination of the term of office to which the party had been elected or appointed.

Then as to the moral obligation, what does it add to the force of that moral obligation which allegiance as between the Government and the party owing the allegiance creates? Treason has been committed against the United States, according to the letter of the law and according to our understanding of the law; but it is neither more nor less treason, it is not a milder or more aggravated type of treason, because the parties who may have committed it may at some time or other have taken an oath to support the Constitution of the United States. If any man was indicted who had not taken that oath, he could not be permitted to urge in his defense or in extenuation of his crime that he had never taken an oath to support the Constitution.

But this amendment does not go far enough. I suppose the framers of the amendment thought it was necessary to provide for such an exigency. I do not see but that any one of these gentlemen may be elected President or Vice President of the United States, and why did you omit to exclude them? I do not understand them to be excluded from the privilege of holding the two highest offices in the gift of the nation. No man is to be a Senator or Representative or an elector for President or Vice President—

Mr. MORRILL. Let me call the Senator's attention to the words "or hold any office, civil or military, under the United States."

Mr. JOHNSON. Perhaps I am wrong as to the exclusion from the Presidency; no doubt I am; but I was misled by noticing the specific exclusion in the case of Senators and Representatives. But I submit to the Senate whether it is advisable, whether it is politic, looking to the end which we all seek to accomplish, the true restoration of the Union, a union of hearts as well as a union of hands, that you should exclude the large mass of people from participating in the honors of the Government who will be excluded by this provision.

Mr. GUTHRIE. I am inclined to vote for

work of conciliation here and elsewhere than all the men that you leave out of it. They are the representative men of the South, they have the confidence of the people of that section of the country. I think they have given abundant evidence that they are satisfied that they have tried the game of secession and given it up honestly and entirely, and are willing to come back to join in the Government heart and hand, and carry forward its flag, looking to the bright destiny of this nation in the future. The amendment will make the section less proscriptive, diminish the number which fall victims under its rule, and for that reason I shall vote for it. Now is the hour for conciliation, now is the time to trust in the South.

Mr. HENDRICKS. It is proper, perhaps, I should say that I do not expect to vote for the third section whether the amendment which I propose be adopted or not; but I suppose that I understood the purpose of the caucus, from which this amendment came, to be to exclude the men who violated their oath of office when they went into the rebellion, who added moral perjury to the crime of violating their allegiance. I thought the language went further than the caucus intended, and therefore I moved this amendment with a view of confining the section to the very case which I had a right to presume was intended to be met. If my amendment be adopted, it will leave the section to exclude all persons who at the time they went into the rebellion were under the obligation of an official oath to support the Constitution of the United States.

Mr. SHERMAN. I would ask my friend, the Senator from Indiana, whether it excludes those who resigned an office in the United States Army, for instance, for the purpose of going into the rebellion. Does not his amendment exclude from the operation of the section those who held office under the United States, resigned it, and then went into the insurrection, as in the case of General Lee?

Mr. HENDRICKS. I think not. If the Senator will observe the language he will see that it has not the effect which he fears. I use the words "during the term of his office." A man's term does not expire because he resigns his office. If a man holds an office the term of which the law fixes at four years, the term is four years. If he holds an office during good behavior, the term is thus fixed; the resignation of an officer does not put an end to the term; that is judicially settled. In some of the States, for political purposes, it is provided in the constitution that a man elected to a judicial office shall not, during the term of the office for which he was elected, be eligible to any other office. Judicial officers holding office under a constitution like that have resigned during the term and been elected to other

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