W. L. Yancey.

YANCEY, William Lowndes, statesman, b. in Ogeechee Shoals, Ga., 10 Aug., 1814; d. near Montgomery, Ala., 28 July, 1863. He was the son of Benjamin C. Yancey, a lawyer of Abbeville, S. C., was educated at Williams college, studied law, and was admitted to the bar in Abbeville. In 1836 he removed to Alabama, and was admitted to the bar. He edited the "Cahawba Democrat" and the "Wetumpka Argus." He served in both branches of the legislature, and was elected to congress in 1844 to fill a vacancy, and re-elected in 1845, but resigned in 1847 to devote his entire attention to law. In 1845 he was challenged to a duel by Gen. Thomas L. Clingman, but neither was injured in the encounter that ensued. He was a member of the National Democratic convention that met at Baltimore in May, 1848, a zealous opponent of the compromise measures of 1850, a presidential elector in 1856, and one of the leaders of the extreme party in the south. In a letter written in June, 1858, and published in 1860, he advised the organization of committees of safety in all the cotton states to "fire the southern heart," and ultimately to precipitate those states into revolution; and in 1859 he urged the calling of a convention by the state of Alabama, in the event of the election of the Republican candidate for president in 1860. He was a member of the Democratic convention at Charleston, 23 April, 1860, and withdrew with other southern extremists. During the presidential canvass he made a tour through the north and west, speaking at Faneuil hall, Boston, Cooper institute, New York, and elsewhere, urging the rejection of the Republican candidate on the ground that the platform adopted by

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that party would make the south hopeless of justice on the slavery question. In the Alabama convention, which met at Montgomery, 7 Jan., 1861, he reported the ordnance of secession, which was passed on 14 Jan. On 27 Feb. he was appointed a commissioner to the governments of Europe to obtain a recognition of the Confederate states, and left New York in March. He returned in February, 1862, and was a member of the Confederate senate at Richmond until the time of his death.

WILLIAM L. YANCEY, MEMBER OF THE CONFEDERATE SENATE, CONFEDERATE COMMISSIONER TO EUROPE IN 1861.
FROM A PHOTOGRAPH.

Yancey, WILLIAM LOWNDES, legislator; born in Ogeechee Shoals, Ga., Aug. 10, 1814; went to Alabama in youth, where he studied law, and entered on its practice at Montgomery. For a while he was engaged in journalism, and served in both branches of the Alabama legislature. From 1844 to 1847 he was a member of Congress. A fervid and fluent speaker, he was an influential politician in the Democratic party, and became a leader of the extreme Pro-slavery party in the South. As early as 1858 he advised the organization of committees of safety all over the cotton-growing States. His speeches did much to bring about the Civil War. Mr. Yancey reported

the Alabama ordinance of secession to the convention at Montgomery, which was adopted Jan. 14, 1861. In February following he was appointed a Confederate commissioner to the governments of Europe to obtain the recognition of the Confederate States. He entered the Confederate Congress early in 1862, in which he served until his death, near Montgomery, Ala., July 28, 1863.

Yancey's letter on the admission of Kansas under the Lecompton constitution:

MONTGOMERY COUNTY, ALA.,
May 24, 1858.

Neither am I in favor of making up an issue of condemnation of our representatives in Congress on account of their

WILLIAM LOWNDES YANCEY.

support of "the conference bill." Such an issue would at once divide and distract that noble band of Southern Rights men who believe in secession, and have ever been ready to exercise it—upon whom the South can alone rely in her greatest need—who though not perhaps a majority, yet by their earnest action—by their intellectual ascendency—their known political probity—the fairness and intensity of their faith have, since 1851, succeeded in giving direction and control to public opinion at the South. Many of the choicest spirits of that class of Southern men are now in Congress, having voted for that conference bill, under a sincere misapprehension, in my opinion, as to the true design and character of that measure. I would deeply deplore making an issue with such men — an issue which, whatever might be the mere personal result, could not but inflict a deep and lasting wound on the cause of the South. The only set of men in our midst who are now lending their energies to produce such an issue, in my opinion, are the Union-loving fogies, who expect to rise upon the ruins resulting from a quarrel among the States Rights men.

But I am for a free discussion of the merits of that measure. I am for a daily reckoning of the position of the South. I think it prudent to know our latitude and longitude, daily — to heave the lead hourly, to ascertain our soundings — and if the ship of State has been wrongly directed she should be put upon the right track at once. In this view I candidly say that in my opinion Quitman and Bonham were right in voting against the "conference bill."

By the treaty with France, by which the United States acquired the territory of which Kansas is a part, the government guaranteed in the third article that "the inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the federal Constitution," etc.

By the Kansas act, nineteenth section, it was provided that a temporary territorial government should be erected—"and when admitted as a State or States, the said Territory, or any portion of the same, shall be received into the Union, with or

without slavery, as their constitution may prescribe at the time of their admission." The thirty-second section provided that the people thereof shall be left "perfectly free to form and regulate their domestic institutions in their own way—subject only to the Constitution of the United States."

The National Democratic Cincinnati Convention of June, 1856, "Resolved, that we recognize the right of the people of all the Territories, including Kansas and Nebraska, acting through the legally and fairly expressed will of a majority of actual residents, and whenever the number of their inhabitants justifies it, to form a constitution with or without slavery, and be admitted into the Union upon terms of perfect equality with the other States."

The first clause, section 3, article iv., of the federal Constitution prescribes that "new States may be admitted by Congress into this Union."

These, I believe, are all the rules which a Democrat would look to in coming to a conclusion on this question; and it seems to me clear that when construed together, he must come to the conclusion, first, that by treaty the inhabitants of Kansas have *a right* to be admitted into the Union "as soon as possible, according to the principles of the federal Constitution," and therefore that Congress has bound itself to exercise its general constitutional discretion as to admitting new States in favor of an admission of Kansas.

Second, that the Kansas act has transferred to the people of Kansas the right "to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States," and to be admitted as a State.

Third, that the National Democratic Convention has explicitly recognized this *right* to admission. The Democracy and the opposition both conceded the question as to numbers, the only issues being, were, first, as to whether the Lecompton constitution expressed the will of the people; and, second, as to the admission of a slave State in any event.

The Democracy framed a bill in the Senate to admit Kansas. It passed that body, and was defeated in the House by a combination of black Republicans, of Douglas Democrats, and a few South Americans.

The Kansas conference bill was then submitted and passed. The Democracy, combined with a few South Americans, and a portion of the Douglas Democrats, carried it through. That bill was, in my opinion, based on this fundamental error —that Congress had a right to refuse to admit Kansas as a State, unless Kansas would enter into a contract with the general government, whereby, in consideration of certain land grants, the new State would release certain powers which are specified in the following proviso:

"The foregoing propositions herein offered are on the condition that said State of Kansas shall never interfere with the primary disposal of the lands of the United States, or with any regulation which Congress may find necessary for securing the title in said soil to *bona fide* purchasers thereof; and that no tax shall be imposed on lands belonging to the United States, and that in no case shall non-resident proprietors be taxed higher than residents. Sixth, and that said State shall never tax the lands or property of the United States in that State."

The leading press in Alabama which advocates that bill said it was necessary to make these propositions a condition precedent to admission, because otherwise "the right to tax and dispose of the public domain would be wholly in the hands and at the mercy of the State, if she chose to exercise it."—[*Confederation.*]

One of the ablest supporters of that bill in the Senate says: "The consequences of admitting a State without a recognition precedent of the rights of the United States to the public domain are, in my opinion, the transfer of the useful with the eminent domain to the people of the State thus admitted without reservation." —[*Hon. Jeff. Davis.*]

Another prominent advocate of that bill said in the Senate, in speaking of the bill and the Kansas constitution: "We do not alter that; we accept that part of your proposition, and we give you the ordinary grant of land, but we will not give you the extra 17,000,000 acres that you claim. If they will not agree to this, what is the consequence? The bargain is at an end,

of course the constitution fails, the ordinary grant fails, and she is in a territorial condition."—[*Hon. Robert Toombs.*]

These extracts show the principles upon which the conference bill rests, as defined by its friends.

Now, as I have shown that Kansas is entitled to admission "as soon as possible consistent with the principles of the federal Constitution," it follows that the principles above quoted as ground for her rejection, unless she accepted the proposition of Congress to be valid, must be "in accordance with the principles of the federal Constitution." If they are not, then the conference bill is fundamentally an error.

I think that I shall be able to show that it is a fundamental error, by the decision of the Supreme Court of the United States.

The lands in the Territory belong to the general government, as trustee for the States. What is called the *eminent domain,* is vested in the United States "for the purposes of temporary government" alone. When the Territory becomes a State, the new State succeeds at once to the rights of eminent domain — and nothing remains to the United States but the public lands. These principles are not new. They have been declared to be correct by the Supreme Court of the United States, in Pollard's Lessee *v.* Hagan *et al.,* 3 Howard's Rep. In that case the court say:

"We think a proper examination of this subject will show that the United States never held any municipal sovereignty, jurisdiction, or right of soil, in and to the Territory of which Alabama or any of the new States were framed, except for temporary purposes, and to execute the trusts created by the acts of the Virginia and Georgia legislatures, and the deeds of the cession executed by them to the United States, and the trusts created by the treaty with France, of April 30, 1803, ceding Louisiana." This decision then places the Territories, as far as this principle is involved, all on the same footing, and the principle applicable to Alabama is therefore applicable to Kansas. The Supreme Court then say further: "When Alabama was admitted into the Union on an equal footing with the original States she succeeded to all the rights of sovereignty, jurisdiction, and eminent domain which Georgia possessed at the date of the cession, except so far as this right was diminished by the public lands remaining in possession and under control of the United States, for the temporary purposes provided for in the deed of cession. Nothing remained to the United States according to the terms of the agreement and the legislative acts connected with it but the public lands. And if an express stipulation had been inserted in the agreement granting the municipal right of sovereignty and eminent domain to the United States, such stipulation would have been void and inoperative; because the United States have no constitutional capacity to exercise municipal jurisdiction, sovereignty, or eminent domain within the limits of a State or elsewhere, except in cases in which it is expressly granted" (by the federal Constitution).

In the opinion of the court, then, it seems that neither an act of Congress requiring the assent of Kansas [nor an acceptance of that requirement by Kansas] to a disavowal of any right to the eminent domain over the public lands, would operate to confer on Congress any rights incident to the eminent domain, for such would be "void and inoperative." The lands belong to the United States. The sovereign municipal power over them belongs to the States; and no act of Congress, or assent of Kansas, can alter this state of things.

Let us apply these principles to the conference bill. The first and second of the conditions precedent required by Congress, it is now clear, are "void and inoperative" in the opinion of the Supreme Court, because Kansas had no right in the public lands, and therefore could no more interfere with their sale by their owner than she could with a sale of his lands by an individual citizen.

The fourth condition precedent is of the same character, the Constitution of the United States forbidding a State to tax the property of a non-resident higher than similar property of a resident. See case of Wiley *v.* Parmer, 14 Alabama Reports.

These questions have all been adjudicated; and the courts have jurisdiction

over them, and the Constitution of the United States prevails over any State enactment or even constitutional provision on the subject.

These views were relied upon by Congress when she admitted California, a free-soil State, and at the same time rejected her land ordinance; and on these principles the Senate Kansas bill was based. Why were they so suddenly departed from in the conference bill?

The remaining conditions relate to the taxing powers of the State.

No one contends that Congress can alter a constitutional power to tax, in a State constitution. The original thirteen States had that power, and were not required to concede it before admission; and Kansas had a right to admission upon an equal footing with the old States. Suppose Kansas should say to the general government: "I do not choose to yield my sovereign right to tax property within my borders for any quantity of land—I therefore will make no contract with you." Will it be pretended that Congress could keep Kansas out of the Union on that account? If it is so contended, I demand the clause in the Constitution giving it that power. Congress may require that the Constitution shall be republican—Congress may require that her boundaries be reasonable; but where does Congress get the power to restrict exercise of that highest attribute of sovereignty — the power to tax property within the limits of a new State? But, it is replied, we claim no such power for Congress; we only claim that unless Kansas yields the right, she shall not be admitted. This yields the question that Congress has no right to force the State to restrict its taxing power, but claims that Congress may refuse admission of the State unless it is restricted! This is whipping the devil around the stump. It is using one power of Congress for the purpose of getting the exercise of another which does not belong to it. But I deny that Congress can make this a ground of refusal of admission—because the treaty with France obtained the pledge of Congress to admit the inhabitants of the new Territory "as soon as possible according to the principles of the federal Constitution." The principles of that Constitution are that the powers not delegated to the United States by the Constitution nor prohibited by it to the States are *reserved to the States respectively*, or to the people." The power to tax land within its borders is a "reserved right," and any attempt by Congress to force a grant of such a right by denying the State admission unless she yields it, in the face of that treaty stipulation, is in opposition to the spirit and "the principles of the federal Constitution."

It is said, however, that Kansas asked too much land and Congress should not have yielded to that request. I agree to this. But the acceptance or rejection of the land ordinance and the admission of the State are two entirely distinct measures. The land ordinance and the Constitution were two distinct matters—in no way dependent on each other—for the State may refuse to accept of any donation of land from the general government and not yield one of her sovereign rights. The new State was entitled to admission, but had no right to any more land than Congress should choose to give her. The State had a right to be in the Union, with or without land; and Congress, on just principles, was in duty bound to admit her, but might say to her, We reject your application for land and make another proposition, which the State could accept or reject. But Congress had no right to say, Your admission shall depend on your agreeing to our land proposition. Here is the vice of the conference bill, in a constitutional and legal view. Congress refused to the new State its undoubted right of admission, and in order to its enjoyment of that right demanded of the State the restriction of another of its rights.

As a measure of policy, in my opinion, the conference bill was a bad one. The object of the free-soil opposition was to obtain a chance, through the vote of the people of Kansas, to destroy the Lecompton pro-slavery constitution. The object of the South was to force an issue with the North on the admission of a slave State. This was the legitimate issue arising under and designed by repeal of the Missouri Compromise. The South had, in every State, pledged itself to meet all the consequences of such issue.

Far better had the issue been met. The South had done its duty in using all its

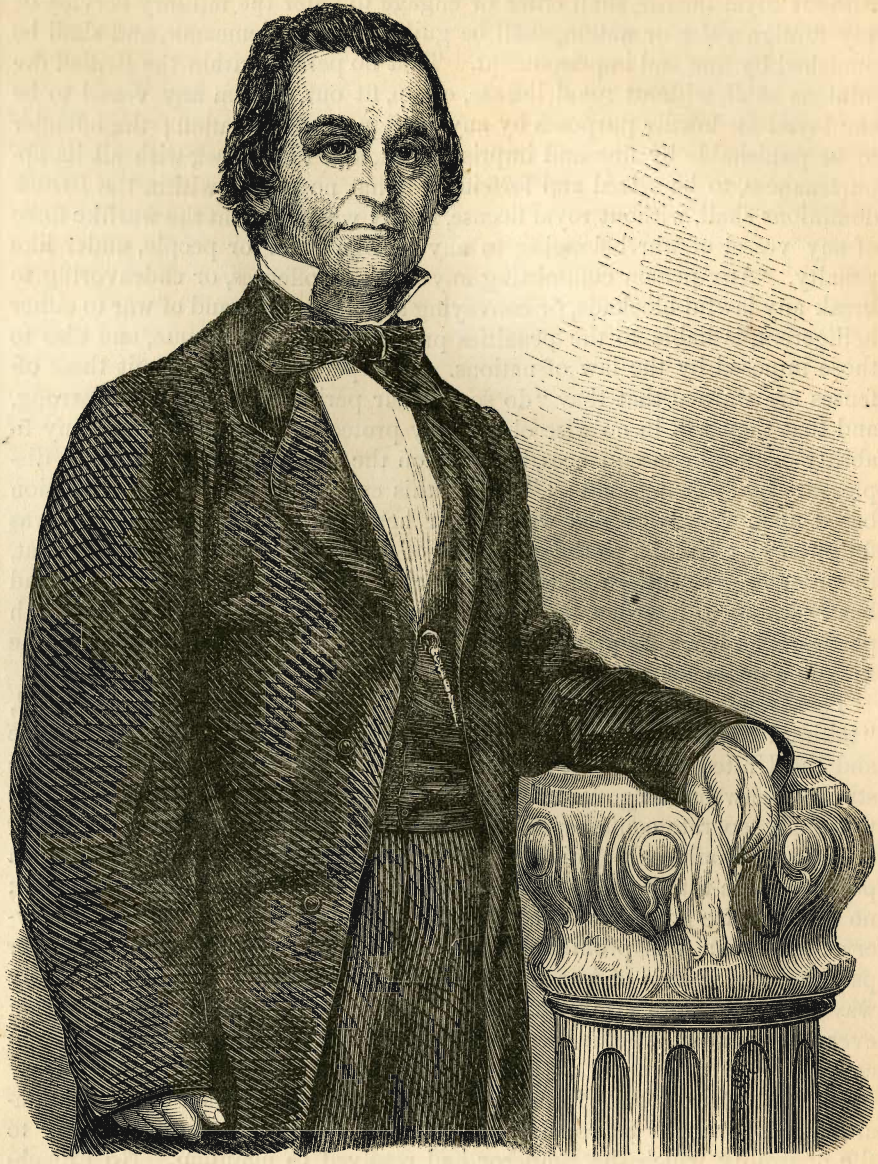
exertions to bring Kansas into the Union "in accordance with the principles of the Constitution." She had done it, knowing that the new State would be represented by free-soil Senators and Representatives. She had nobly performed her duty, without counting the cost. Why should she have hazarded her own unity, and compromised her position by further effort? General Davis answers and says, by this bill "the country was relieved from an issue which, had it been presented as threatened, our honor, our safety, our respect for our ancestors, and our regard for our posterity would have required the South to meet at whatever sacrifice." General Davis may be right, but the fact is that the North laughs at us, and we stand, not exactly a scorn unto ourselves, but certainly without any cause of congratulation at the result.

What has been the effect? To divide the South—to depress the spirit of its people—to abate their confidence in their chosen leaders—to cause them to believe that they have lost all the substantial benefits which were expected to be realized *by the country* from the result of the canvass of 1856—to create distrust and dissension among them.

They were prepared for any result attendant upon forcing the naked, simple issue of the Kansas question—they were not prepared for its unfortunate denouement.

Respectfully your fellow-citizen,

W. L. YANCEY.



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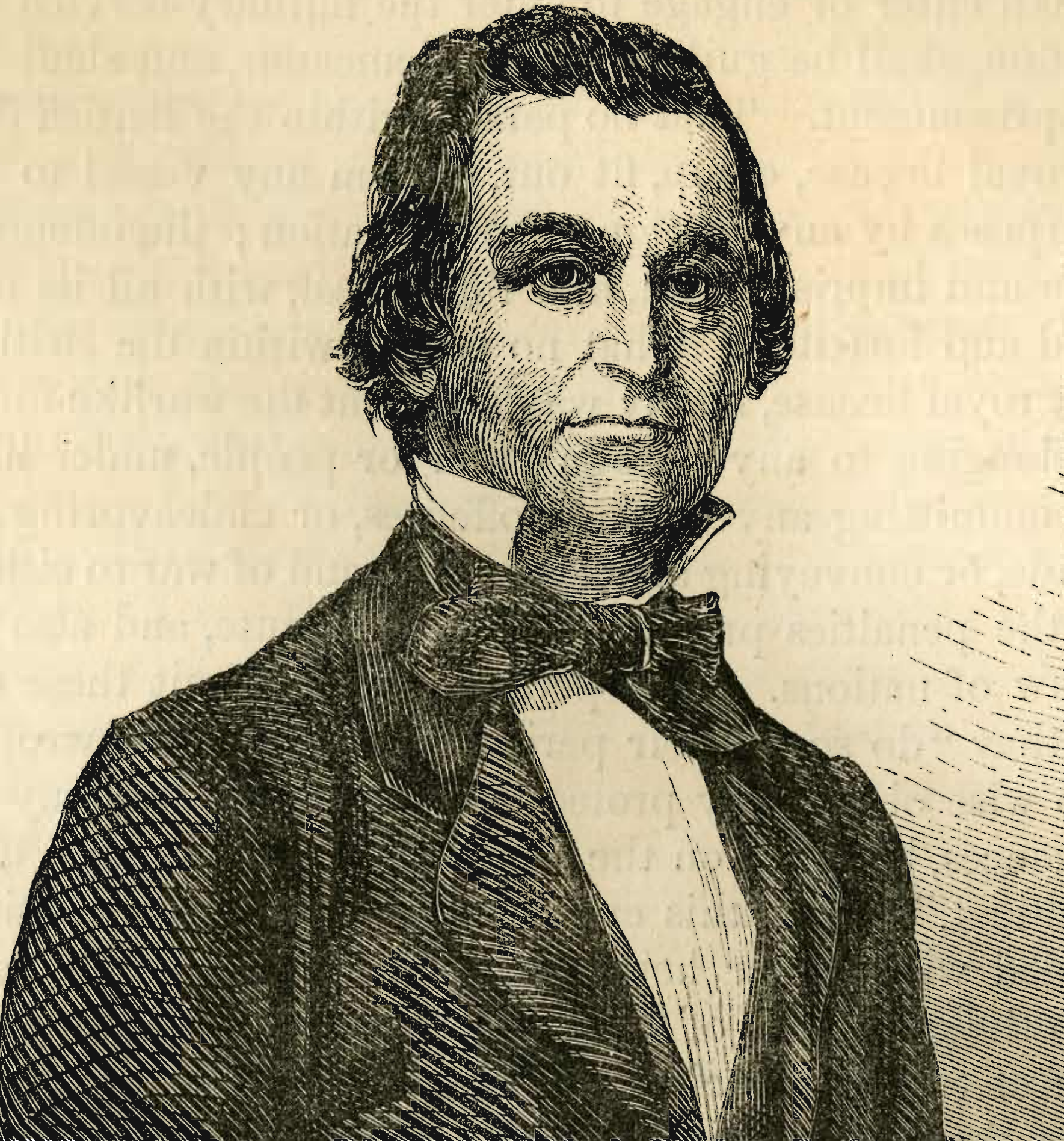

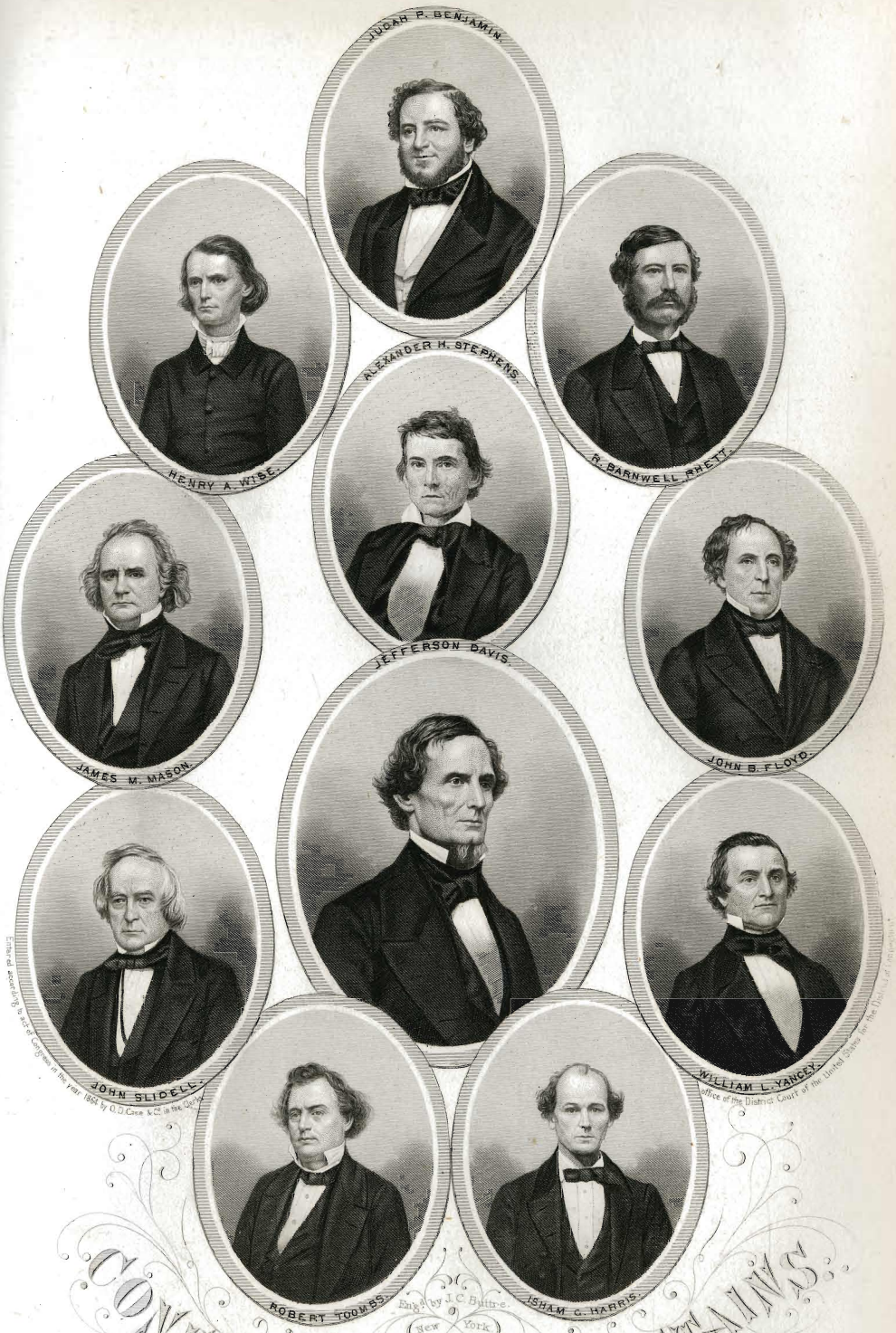
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