North Carolina Argus.

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THE NORTH CAROLINA ARGUS,
PUBLISHED EVERY THURSDAY,
BY FRANK DARLEY.

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NORTH CAROLINA CONFERENCE.

This body closed a most harmonious and interesting session at Fayetteville, on Monday, the 12th inst. Six days were spent in close attention to business, except the Sabbath, which was delightfully spent in religious services.

Bishop Pierce presided with great satisfaction, and his pulpit exercises were of the highest order.

Besides the usual routine of business, the Conference adopted the change in the name of the Church, "Episcopal Methodist," with only three dissenting votes. The proposition to change the Constitution of the Church so as to admit lay delegates in the Annual and General Conferences, was adopted by the vote ayes 49, nays 23.

The Conference resolved to re-build Greensboro' Female College as soon as possible. Twenty thousand dollars have been raised at Greensboro' towards that object, and Rev. Dr. Deems and Rev. A. W. Mangum were appointed Agents to secure the funds. Mr. Mangum is the active Agent in this State.

It was resolved to resume the publication of a Church paper in this city at an early day, to be called the "Carolina Episcopal Methodist," and also to establish a Bookstore in connection therewith.

The objects and aims of Rev. Dr. Deems in his mission work in New York, were highly commended by the Bishop and Rev. Dr. Sehon.

The missionary collections for the year were only about $1,000, and those for the superannuated preachers, exceeded $1,400.

Both preachers and people were highly delighted, and the preachers will not soon forget Fayetteville.

The next Conference will be held at Wilmington.—*Sentinel.*

We give below the appointments for the adjoining district—which only possesses any local interest to our readers:

Fayetteville District.—S. D. Adams, P. E; Fayetteville Station, T. W. Guthrie; Cumberland circuit, H. P. Cole; Deep River circuit, F. H Wood, T. C. Moses, Supernumerary; Cape Fear circuit, J. W. Avent; Jonesboro' circuit, G. Farrer; Troy circuit—to be supplied; Montgomery circuit, J. D. Buie; Uwharrie circuit, C. W. King; Rockingham circuit, J. Wheeler; Robinson circuit, W. S. Chaffin; M. L. Wood, Missionary to China.

DECIDED.

The approaching trial of Mr. Jefferson Davis will test the validity of State Rights in a manner worthy of the immense importance of the principle. A great defendant and a great cause will compel a great verdict. The Southern theory, and it used to be the Northern theory until the European element became predominant in the Puritanic and despotic section of the Union, is, that the *first* allegiance of a citizen is due to his own State. When the State of Mississippi seceded from the Union by the legitimate action of its Legislature, Mr. Davis would have been a traitor to Mississippi if he had refused his adhesion. Upon that issue his trial will depend. It will be a great cause in America and throughout the world; but greatest in America because the verdict will help to determine the question that lies at the root of American liberty. If the first allegiance is due to the Federal power in cases not external to the Union, American democracy is as dead as American slavery, and the future Dictator has but to sharpen his sword, and bide his time for his inevitable triumph.

[*Blackwood's Magazine.*

A SLANDER REFUTED.

It having been reported by the Pittsburg *Commercial* that Gen. Beauregard had said that he would carry nothing over the road of which he is President for "d—d Yankees," the General gives the matter its quietus by pronouncing the statement utterly false, and concludes by saying: "When I surrendered with the Confederate forces at Greensboro', North Carolina, I buried the hatchet, not to be unburied again except in defence of the country and its Constitutional Government."

☞ Mrs. Davis has donated a valuable set of jewels to the Washington and Lee Association of Norfolk ladies, to be disposed of, and the proceeds appropriated to the benefit of the orphan children of Southern soldiers.

[From the Washington Republican.

"IF THE AMENDMENT FAILS."

We publish upon the fourth page, to-day, an article with the above caption, taken from the New York *Evening Post*, and upon which we propose to say a few words. The question is of great importance to the whole country, and should be calmly considered and candidly discussed. The spirit in which the *Post* deals with it is admirable and worthy of imitation by the people and press of the Union. We shall endeavor to follow its example in what we have to say, and before leaving the subject, notice an article in that paper, of the 24th of September last, of a similar character.

In the article of yesterday the *Post* urges on the Southern States the adoption of the proposed amendment, because, among other reasons, its "rejection will cause another political struggle more intens[e] ... we are now passing, more injurious to the ... y, and especially to the Southern States—a contest of which the issue is not doubtful, for the twenty millions of the Northern States will begin to see the unreasonableness of the Southern leaders, and will loose patience with these men who so stubbornly refuse the mildest terms ever offered to beaten rebels." The mildness of the offer, we submit, is not the proper question to be considered first. The first question for consideration is the right of Congress to make its adoption a condition precedent to the recognition of the right of those States to representation in the Senate and House according to the provisions of the Constitution.

This necessarily leads to this inquiry: What were the respective powers and duties of Congress, and the President of the United States and the Judiciary, in regard to the late rebellion, at its commencement, during its progress, and at its close? These questions can only be answered by a careful examination of the Constitution of the United States. Their duties depend on the powers which are conferred on each of them by that instrument. "The people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to themselves and their prosperity, ordained and established this Constitution of the United States of America." They thought proper to divide the powers of government therein granted, into three great departments—legislative, executive, and judicial. In the first article they declare, (sec. 1,) "All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." (Sec. 2) "The House of Representatives shall be composed of members chosen every second year by the people of the several States," but each State shall have at least one representative. (Sec. 3.) "The Senate of the United States shall be composed of two Senators from each State, * * * and each Senator shall have one vote," and "no State, without its consent, shall be deprived of its equal suffrage in the Senate."

By the second article it is provided: "The executive power shall be vested in a President of the United States of America," and before he enters on the execution of the duties of his office he shall take the following oath: "I do solemnly swear that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States." And among the duties especially imposed on him is this: "He shall take care that the laws be faithfully executed."

Article III (sec. 1) provides that "the judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish." "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." (Article 10.)

Article VI (sec. 2) declares, "this Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding." [Sec. 3.] "The Senators and Representatives before mentioned, and the members of several State legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution." * * *

All the legislative power which Congress possesses is delegated power, and delegated by the express terms of the Constitution. All executive power is vested in the President of the United States of America; and neither of these two departments of the Government can exercise the power delegated to the other. Powers not strictly legislative are specifically granted to Congress and the mode of exercising such power is also specifically indicated in the Constitution as, for example, the power of impeachment and the power to declare war. The same may be said of the Executive Department. The President is authorized "to grant reprieves and pardons for offences against the United States, except in case of impeachment." He has power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur. He has power to nominate, and, by and with the advice and consent of the Senate, to appoint ambassadors, other public ministers, and consuls, judges of the Supreme Court and all other officers of the United States whose appointments are not otherwise provided for in the Constitution. He has power to fill up all vacancies, and it is made his duty, from time to time, to give to the Congress information of the Union, and recommend to the State of their consideration such measures as he shall judge necessary and expedient.

It is worthy of observation that while general terms are employed in the ... of all legislative power to Congress, and ... the President with all the executive power ... ment, in each instance, where a ... power is given or duty required of either of ... ments, apt words are used. As a ... position it may be laid down that ... of Congress to make laws, and ... to execute them. Therefore ... ment of the rebellion, when ... apparent that civil authority could not ... used in the usual way, it was the duty of the President to take cognizance of the fact, and to employ such military force as he possessed to ... the laws. It was his duty to do this ... once and without waiting to be prompted thereto. If the means at his command proved to be inadequate, it was his duty to give Congress ... of the state of the Union, and to ... to their consideration such ... as was necessary to accomplish ... and to use them for that purpose, as Commander-in-Chief of the army and navy, until all armed opposition to the Constitution and laws of the United States was completely ... He was the judge of when that was accomplished, and he was responsible to Congress by ... to the Judiciary by indictment, and to the great body of the American people at the ballot box, for the faithful discharge of that duty.

The Congress of the United States, as we have already seen, has no power to interfere with the execution of the laws; its supervision in this behalf is alone in the power to impeach the Executive if he fails to discharge his duty properly; and therefore when, in the opinion of the executive, the civil authority was adequate to the execution of the laws in the usual way, it was the duty of the President, without any direction from Congress, to recall the army and the navy; and thereupon it became the duty of the judicial department to proceed to the indictment and trial of all individual offenders in the manner provided for in the Constitution and laws of the United States, and in every instance any individual citizen indicted for participating in the late rebellion is authorized to plead his pardon in his defence, if one has been granted him by the pardoning power. In accordance with these views we find that on the 29th of May, 1865, the President, by his proclamation of that date, did pardon the great mass of those citizens engaged in the rebellion, and promised a general amnesty to that effect on certain conditions, and especially provided for granting pardons to certain classes of individuals upon their making personal application therefor.

Subsequently, on the 2d of April, 1866, by proclamation of that date, the President declared that all armed opposition ... ceased, that civil authority was restor[ed] ... all the States lately in rebellion ... Texas.

The fact that by an act of Congress, passed after the rebellion began, the people of certain States were declared to be in rebellion against the Constitution and laws of the United States, can have no effect upon this question. If they were not in rebellion, it could not make them so; if they were in rebellion, the omission of Congress to make such a declaration would not relieve the President from his constitutional obligation to take care that the laws be faithfully executed. The power to decide all judicial questions is vested, as we have already seen, in one Supreme Court. Its decision is final and conclusive, and from it there is no appeal.

All legislative power being vested in Congress, the discretion of that body within the limits of powers granted cannot be called in question by any other department of the Government. In like manner, the execution of the laws is intrusted solely to the President, and no other department of the Government can supervise his action in that behalf. He must determine when military force is necessary to aid the civil authority, its extent; and he alone must determine when it is no longer necessary. The power to decide this finally must be intrusted to some one department of Government, and under our Constitution this is exclusively given to the Executive Department, as the power to adjudge the laws is given to the judicial department.

As before stated, when any power not strictly legislative in its character is conferred upon Congress, it is done in express terms. The power to admit new States of this description. This power is expressly given by the Constitution, but we look in vain through that instrument to find any power which authorizes Congress to expel a State from the Union which has once been admitted. No such power is given; on the contrary, in express terms, as we have already seen, it is declared no State, without its consent, shall be deprived of its equal suffrage in the Senate, and it is worthy of note, this imperative prohibition is found in the fifth article, which provides the mode and manner of amending the Constitution of the United States. The fact that resistance was made in the name of a State, by any combination of its citizens, however numerous they may have been, cannot have the effect of destroying its political existence, or of affecting its rights in any respect, because their action, call it secession, or rebellion against the Constitution and laws of the United States, or by whatever name you please, is in conflict with that provision of the sixth article already quoted, which declares that the Constitution of the United States is "the supreme law of the land, * * * anything in the Constitution or laws of any State to the contrary notwithstanding." Therefore, the ordinance of secession, intended by its framers to sever the relations of the State with the Union, must be null and void, and an attempt at usurpation, and for the same reason.

We have already seen that the President is required to swear that he will preserve, protect and defend the Constitution of the United States to the best of his ability, and that among the duties specially imposed on him is this: he shall take care that the laws be faithfully executed.

It is the Constitution which declares that all legislative power is vested in the Congress of the United States; it is the Constitution which declares how that Congress shall be organized, and of what it shall consist, to wit: two Senators from each State, and at least one Representative. When for any cause Congress denies to a State this right of representation, in the Senate and House, it violates the Constitution, which is the supreme law of the land. Whose duty is it to see that the laws are faithfully executed? Is this duty less imperative because the transgressor is Congress instead of the State of South Carolina? Will the *Post* answer?

Thus far we have shown—

1. That each State as it came into the Union under the Constitution stipulated with the others, and with the Government of the United States, that the "Constitution of the United States should be the *supreme law of the land*, * * * and the judges in every State should be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding." Therefore an act or ordinance of secession must be null and void, because it is in conflict with the supreme law.

2. That all executive power is given to the President, and that it was his ... immediately to employ all the means at his command necessary to put down the rebellion against the Constitution and laws of the United States which followed the passage of such acts or ordinances by several of the Southern States; and to call on Congress for more means if those already at his disposal were inadequate. That he was the sole judge, under the Constitution, as President and Commander-in-chief, of the existence of a rebellion in point of fact, and also when it had been put down, so that civil authority could be executed in the usual manner.

3. That it was the duty of Congress to put such means at his disposal from time to time as in its judgment were necessary and proper to enable the President to do this.

4. That when the President proclaimed that armed rebellion had ceased, the authority of the Constitution and laws of the United States, which had been for a time suspended by the military power of the rebels, was thereby immediately restored, and it became the duty of the courts to proceed at once to the trial of all offenders throughout the Union.

5. That Congress has power to admit new States into the Union, but cannot expel a State which has once been admitted, nor deprive it of its right of representation in the House or of its equal suffrage in the Senate.

6. That all legislative powers are vested in a Congress of the United States, which shall consist of a Senate and House of Representatives. That the House of Representatives *shall be composed* of members chosen every second year by the people of the several States, but each State shall have at least one Representative, and the Senate of the United States *shall be composed* of two Senators from each State, and each Senator shall have one vote.

7. Therefore when armed resistance to the authority of the United States had been put down and Senators and Representatives from those States presented themselves whose "*election, returns, and qualifications*" were satisfactory, they were entitled to their seats, and the refusal of a part of the Senators and Representatives to recognize the right of a State to send Senators and Representatives is not warranted by the Constitution, and is to all intents and purposes as plainly a violation of the Constitution by them as is the passage of an act or ordinance of Secession by a State.

8. That while the neglect or refusal of a State or States to send Senators and Representatives cannot destroy the power and authority of a Congress of the United States, so long as the quorum remains, yet it becomes a matter of the utmost gravity when a part of the States, by their Senators and Representatives, refuse to permit the others to be represented in a Congress of the United States.

We now propose to show that each of the three great departments of the Government, but especially the legislative and executive, recognized the right of the States, to their constitutional representation in the Congress of the United States during the entire period of the rebellion, and that good faith and sound policy alike demand that the Government should adhere to the plain language of the Constitution in this, as in all other questions of organic law. Let us review the action of Congress first:

1. In July, 1861, Congress declared the war was not prosecuted for conquest or subjugation, but to maintain the supremacy of the Constitution and laws of the United States, and as soon as this was acknowledged by those in rebellion the war ought to cease.

2. Again, during the same month, Congress passed an act fixing the whole number of Representatives under the census of 1860 at 241, and apportioning to each of the States, including those that were in arms against the Union, their proportion according to ratio agreed on for all.

3. This was *after* each of the States had passed an ordinance of secession, and *after* the "so called" Congress of the Confederate States had passed, on the 17th of May, 1861, an act declaring that it "recognized a state of war between the Confederate States and the United States"

4. The resolution in regard to the objects of the war has never been repealed. The act apportioning Representatives to the States in rebellion still stands untouched on the statute-book of the Union, and the Representatives from the State of Tennessee were elected and permitted to take their seats under it.

The action of the Executive Department is equally decisive in support of this view of the subject:

1. President Lincoln in his inaugural address speaks of them as States. He does the same in his proclamation establishing a blockade of their ports, to commence in ninety days from its date, unless in the meantime the rebels had laid down their arms and submitted to the authority of the Union. Again, in 1862, in the proclamation preliminary to the one abolishing slavery President Lincoln addressed the people of States and parts of States in rebellion and assured them that he would issue his final proclamation in one hundred days from that time, unless in the meantime they returned in good faith to their allegiance; and that if before the expiration of that period Representatives, chosen at elections in which a majority of the legal voters of the State have voted, and Senators, duly elected by the Legislature, presented their credentials and claimed their seats in Congress that should be satisfactory evidence of the desire of the people of that State, to renew, in good faith, their allegiance to the Constitution and laws of the United States.

Through the Secretary of State the President assured the French Emperor, who had expressed a willingness to mediate, that the Congress of the United States was the proper forum to discuss any difficulties between the people or States of the Union, and that the seats of Senators and Representatives from the insurgent states were ready and could be occupied by them whenever they presented themselves.

Finally, President Lincoln, after Gen. Lee's surrender, spoke of them as States in the last ...

The action of the judicial department has been equally clear and decided, though not so conspicuous, in regard to these States. Causes which came to the Supreme Court from those States by appeal or writ of error, before the war, still retain their places on the docket of that court and are heard the same as causes from other States; and these States are treated, in all respect, *as States* in the new arrangement of circuits which has been rendered necessary by the recent change in the number of them.

In the "Prize cases," 2 Black's Rep. 587, and in Mrs Alexander's cotton case, 2 Wallace's Rep. 404, that Court decides nothing in conflict with this view; on the contrary, a careful examination of the cases will show they are in harmony with its previous decisions on similar questions and with elementary writers of established authority. United States vs. Haywood, 2 Gallison Rep. 501; United States vs. Rice, 4, Wheaton's Rep. 246; Santissima Trinidad, 7; Wheaton, 338.

When civil war once exists each party to the war is to be treated, for the time being, as an independent political power, having all the rights which belong to belligerents in public international war. Vattel's Law of Nations, pp. 425, 426, sec. 293, 294, 295. All the laws of the established and organized Government are suspended for the time being, and all the inhabitants owe temporary allegiance to the power thus established over them and are bound by its laws and regulations. Vattel's Law of Nations, 425.

When the Island of Castine was held by the British Government during the existence of the war of 1812, the Supreme Court of the United States held "that is inhabitants owed a temporary allegiance to that Government." But in cases of rebellion, the moment it is put down, as we have already seen, the laws of the ... Government are immediately restored. To compel obedience to its laws was all the United States could fight for. It possessed already all the right and title to the domain which it was capable of holding under the Constitution. It was impossible to acquire any other right by conquest, because there was no other power which held any.

There was a small portion of the Republican party whose opposition to these views took the form of a violent attack on Mr. Lincoln, and two of them, Mr. Davis and Mr. Wade, put their names to a document of that character. It was further manifested in the nomination of a third ticket for the Presidency in 1864, and in the effort to defeat the nomination of Mr. Johnson as Vice President, on the ground that Tennessee was out of the Union and not a State. This dogma was voted down by the members in convention and by the people at the ballot-box.

THE LONDON TIMES ON THE NEGRO.

The London *Times*, in dilating on the subject of negro suffrage in the United States, says:

"Why cannot the negro be declared a citizen and invested with all the rights of a man? The real answer is that he is not a citizen, and cannot be made a citizen by a proclamation or a law. We have unfortunately had a little experience of our own in this matter. We gave the Jamaica negro, in common with his white master, civil equality, and the right of self-government, and see how it has ended. All the negro's instincts and habits go in the other direction. He is careless, credulous and dependent; easily excited, easily duped, easily frightened; always the ready victim of the stronger will. He is material for the hands of anybody who wishes to make use of him. Invested with full political rights, the race must be a magazine of mischief. In Jamaica it appears that the negroes would imbibe, at a day's notice, any absurd delusion as to the authority and wishes of the British Queen, of the commissioners, or anybody else; but what they were always looking for was something to be given, or something to be done for them, or some law to make them all rich, happy land owners, and tax free forever. Such men are not citizens, call them so as we will.

AN IMPORTANT MISTAKE.

The *Planter's Banner*, (La.,) says: Our lawyers, during this session of the court, are getting up some rather novel ideas in regard to the former titles to slave property in the portion of the United States purchased of France in 1812. It is contended that slaves in Louisiana were not property by law of France at the time of the purchase, and they never were made such by a law of this State, and therefore slavery has never had a legal existence in Louisiana since it came under the government of the United States. If this conclusion is sound, Louisiana has been a free State ever since 1812, and was equally free many years before that date. Quite an important mistake.

☞ Mrs. Deborah Bedford, aged ninty-three years, the sole survivor of the historical Wyoming Massacre, is still living with her son, Dr. A. Bedford, in Waverly, Pennsylvania. Her mind is still active, and she is capable of describing, in a perfectly clear and connected manner, the cruel scenes which she witnessed as a six years' old child.