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ENGELHARD & SAUNDERS, Wilmington, N. C.

THE PUBLIC DEBT OF THE STATE.

We this morning begin the publication of one of the most masterly productions as it has been our fortune to read for a long while. In our opinion it disposes of the Public Debt question most completely.

From the letter accompanying the communication, we make the following extract, giving briefly the points established by our correspondent. We regret exceedingly, indeed we are provoked, that the modesty of our correspondent prevents us from giving his name. The communication cannot fail, however, to be recognized, as the production of the gentleman from the middle portion of the State, whose admirable letter upon the Convention question, first published in the Hillsboro Recorder and then republished in the Journal, attracted such general commendation last Fall.

Messrs. Engelhard & Saunders:

DEAR SIR: I have employed myself during the late bad weather in drawing up a paper on the State Debt, which I send by to-day's mail. It comprises a history of the New Debt—upon the basis of the strong circular issued from your office some two years since—in which I have sought to show its utter invalidity; its want of obligation, either legal or moral. Then follows a consideration of the Old Debt; a brief (but I believe just) view of the condition of the State; a discussion of the several alternatives presented to us; and lastly, the conclusion, &c., that it is the course of true wisdom to take no action at present.

I have endeavored to place the subject (as far as my space would allow) in all its aspects, fully, fairly and tangibly before the people of the State.

The Governor of the State, in his message to the Legislature, urged upon that body the necessity of prompt action in regard to the "Public Debt." To this recommendation the Legislature responded by the appointment of a Joint Committee of the two Houses, to consider and report thereon. Thus, by the action of two co-ordinate branches of the government, this subject is prominently presented to the attention of the people of North Carolina; and the importance of the subject is proclaimed by the machinery which it calls into requisition—a Joint Committee of the two Houses, second only in dignity to a Committee of the Whole.

It is proposed to take advantage of the opportunity thus afforded, to give something more than a passing consideration to this subject. It is proposed to retrace shortly the history of what is called the "New Debt"; to consider the manner in which that so-called debt was contracted, and its obligation, moral and legal. It is proposed further, to take a brief view of the resources of the State, and to consider what action ought to be taken with respect to the "Old Debt." If this inquiry shall encroach a little upon the time of the reader, it is hoped, nevertheless, that that time will be not unwillingly conceded, when it is recollected how large a portion of the messages of the late and of the present Governor is devoted to this subject; what an extended consideration it has undergone in former sessions of the Legislature; what an intrinsic weight this question possesses on account of the amount involved; when it is recollected, in fine, how much depends on our State and people upon the proper solution of this question.

It is conceived, however, to be due to the honor of the State, that the grounds upon which she has acted in respect to this question should be clearly stated; that the position she has taken in regard to it, be honestly and candidly explained; that the "New Debt" should be vindicated; and that the responsibility for her inaction in regard to the "Old Debt" should be fixed, and fixed where that responsibility justly belongs.

large cities which grow up at great rates, and from the dense populations which belong to such cities. Though her facilities for manufacturing were great—great by reason of her water power, her staples her minerals—yet without commerce, it would be long before capital could be accumulated for the establishment of manufacturing establishments. But while all these formidable obstacles to industrial greatness existed, all the avenues to moral greatness were open to her. It was then, in this high field of competition, that North Carolina addressed all her efforts to secure for herself a place in the very front ranks, among the States of the North. And her efforts were successful. She won for herself the highest of all honors—that of the honest old State. Knowing her resources to be limited she was slow in undertaking costly public enterprises; she was chary to the last degree in issuing bonds upon the credit of the State; and when she did issue them, it was only to men of the purest integrity and of stainless character that she entrusted their custody and disposal. Such was the State of North Carolina when she had the power of regulating her own affairs—irregular, careful, honest—fulfilling every promise, and in every trust taking due precautions that she might be able to do so. It was natural that these bonds should be the favorite investment of cautious and prudent men every where. It was natural that these bonds should command a considerable premium. This was in fact the case; one State only commanded a higher—this was the State of Massachusetts. Had the people of this State continued to enjoy the boon of self-government to this day, these bonds would be as much sought after now as ever; for then the vast assets of the State in Railroads would have been preserved; we should have been free from those shocks produced by the overthrow of our Government and the Reconstruction Acts; we should have been peaceful and prosperous, and the credit of our State would have been intact.

Why is it then that the credit of our State is to-day so low, and by whose agency was it that this old Commonwealth, with fame once so fair, is now reduced to her present condition of shame and humiliation? Does the responsibility for this state of things rest upon the people of North Carolina? Were they the active agents in the destruction of her credit, or was it brought upon them by a power over which they had no control? If the latter, then the people of North Carolina are innocent of this great wrong; and who they mourn over and deplore the results, to them and to others, they are as much entitled to the respect of the world in their poverty and helplessness, as they were when in the full tide of prosperity and the bonds of the State were at a premium.

To the consideration of these questions it is proposed to proceed, but as their proper solution involves an inquiry into the origin of the Reconstruction Acts; the attitude of the State Government, the attitude of the people, it is invited to that, as a preliminary inquiry.

The close of the war left one great problem to be solved, namely, what was the result upon the political condition of the States then lately in rebellion. At first there seemed to be but one doctrine. This was the doctrine embraced in the policy held by President Lincoln and his Cabinet; the doctrine which underlaid all the declarations of Congress made from time to time, during the war, and over again, proclaimed almost in terms the doctrine also of President Johnson and his Cabinet—his Cabinet being the same as that of his predecessor, Lincoln. This doctrine was that all political power exercised within these States was absolutely extinguished, and that all civil offices were vacant, from the highest to the lowest—from that of the Governor to that of the constable. It was held, however, that notwithstanding the war and the abolition of the South, the States remained as political entities, and that the Constitution remained. It was held, further, that certain alterations should be made in the Constitution to adjust them to the new order of things. The alterations demanded in this State were: 1st, the repeal of the Ordinance of Secession; 2d, the emancipation of slaves; 3d, the repudiation of the debt contracted in aid of the rebellion. To effect these changes a Convention was deemed necessary. That Convention was called by the Provisional Governor; for the State until a new Government could be formed was placed under a provisional government—a government military in its origin and nature, though making use of civil machinery. This Convention met in the Fall of 1865. At this Convention the several alterations demanded were made and were approved at Washington. The State was now thought to be placed in proper constitutional relations to the General Government. At the same Convention an ordinance was made for holding an election for Governor, members of the Legislature and Representatives in Congress. This election was duly held. The Legislature met on the third Monday of November, 1866, and held a regular session. During this session all the vacant offices of the State were filled, and our people, having done all that was required of them, rested in the hope that they had attained a civil government.

It was a brief delusion. On the 24th and 27th of March, 1866, the reconstruction acts were passed by Congress—not, the effect of which was to lay in the dust the fabric of government built up by the President and his Cabinet. States were obliterated as the time being, and parcelled out into military districts. Every office was vacated; not a peace officer was left within the limits of the State. Even the Provisional Government—though military in its nature and powers—was dispensed with, perhaps as tending to delude us, as to our true situation, by its civil forms. A General, in command of an army, took possession of the Department, once the State of North Carolina. Stark military rule was established. The will of the commanding General was absolute; and though courts of a certain sort continued to be held, the General in command had the power of suspending and controlling the proceedings as absolutely as he controlled the movement of his troops on the march or in the field. Such a government can be fully characterized by one term only—that of a stern despotism.

The difference between the "policy" as it was called, of the President and Cabinet, and what was called the "Congressional Policy" is seen at a glance. The Presidential policy was satisfied with such changes in our fundamental law, as would put the State in, what they deemed, true relations to the Federal government.

The Congressional policy could be satisfied by no change in the Constitution, however great. It involved an utter abolition of the State, and the rebuilding of it by the military power of the Federal government. The former touched the bones of our system of government—State sovereignty—as lightly as possible, consistently with the end to be attained; the latter struck full upon it, thrust it out of place, and sprang it out of view. The Congressional policy went further, even than this; it not only set aside our State Constitution altogether, but demanded a change in the Constitution of the United States, to accomplish which the consent of two-thirds of all the States was required. Accordingly a joint resolution was passed in Congress, proposing an amendment to the Constitution of the United States—now known as the 14th Amendment—the Amendment respecting citizenship; basis of representation; disqualification for office; and the validity of the Public Debt of the United States. This Amendment was ratified at once by the "loyal States"; indeed, it was to them in no way objectionable, their population being homogeneous. It was, however, an "experimentum crucis" to the Southern States, where it was intended its force should be spent. But to say objection from this quarter little heed was given; their consent was to be coerced.

It cannot escape observation, what great strides were made towards centralization by this Amendment. Those great subjects were wrought into the vortex of Congressional action and control, which formerly belonged exclusively to the States. But there is no time to pause upon that now. In pursuance of the Act of Reconstruction a registration was had of the voters of this State, and an election was held for members of the Convention on the 19th and 20th of November, 1869. The results of that election were only known through the General commanding this military District; for in a circular issued to the voters, the following were made to him at Charleston. The result was proclaimed in favor of a Convention, and a military order was published requiring the Delegates—a list of whom was attached to the order—to assemble in Raleigh on the 14th day of January, 1869. I assembled accordingly, and to that Convention we owe our present Constitution and almost a million and a half of our public debt, represented by bonds to that amount.

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Did that Convention have power to create that debt? It is clear that it had not, and for reasons which it is easy to assign.

In the first place, the powers of that Convention were limited by the military order under which it assembled. The terms of that order are clear and unmistakable; they are "to frame a Constitution and civil government." This language is so explicit that no ingenuity can pervert it. The Convention was "to frame a Constitution," and its powers were limited to that. It was not to be a law-making body; it was not to be a legislative body; it was not to be a judicial body; it was not to be an executive body; it was not to be a judicial body; it was not to be an executive body; it was not to be a judicial body; it was not to be an executive body.

That the Convention of '68 was a restricted Convention, is manifest from the terms of the above order. The reasons why it was made so by Congress—whose agent the General in command was—may be deduced from a few obvious considerations.

1st. The intent and purpose of Congress. It is plain that the object was to place North Carolina in proper relations to the Federal Government, and to give to her institutions, homogeneous with those of the loyal States, institutions which should preclude, as far as human foresight could go, all possibility of future internal disturbance or collision with the General Government. This purpose could be fully accomplished by a restricted Convention.

2d. Congress was fully cognizant of the fact that a Convention called as that was, not by the people of the State, but by a force *ab extra* was an anomaly in American institutions, and it intended to derogate from the principle which underlies our institutions as little as might be consistent with the objects which it intended to accomplish.

3d. The terms of Reconstruction principles of the American Government, in regard to all matters of citizenship embraced therein. Congress assumed to dispose of this matter without power as the Constitution then stood. Citizenship was peculiarly a question for the State, except that Congress might pass uniform Naturalization laws. By the Acts of Reconstruction Congress disfranchised a very large number of the best citizens of North Carolina and invested with suffrage scores of thousands of liberated slaves. This conflict was recognized by Congress; it was in fact the cause of the 14th Amendment being proposed. It cannot therefore be presumed that any further invasion of the Constitution was intended than was absolutely necessary to carry out the objects of the Acts, toward the formation of a civil government.

It will be observed that in what is here submitted as to the Reconstruction acts, nothing has been said to detract from their ability. It cannot be doubted that in the process of reconstruction, seed was sown, which would, in the course of time, lead to disturbance. That to confiscate property because it is obnoxious to the majority, is a dangerous precedent. The feeling once so strong against a property now extinct, is gathering strength day against day against corporate property. Since corporations have assumed their present colossal proportions, dominating the agricultural interests, moulding at will the legislation of the country, especially our National legislation, there is a settled feeling that they have become dangerous to the Government. This species of property, in its turn, may become the subject of attack. Looking to the precedent of establishing, by the Reconstruction Acts, the security of this class of property must be regarded as very much diminished. The principle is established that Government may confiscate at will any kind of property which has become obnoxious to the majority; though that property be protected by the Constitution, by statutes and by decisions running back through a century of time. It cannot be doubted that the better way would have been that which England adopted in dealing with the saxon description of property and with the borough interests of that Kingdom. Public feeling was strongly excited against both, but the public sentiment of justice demanded that compensation should be made for both. But the principle of Reconstruction is a question which is foreign to the present purpose.

No much for the bonds issued under the authority of the Convention. These were, however, in amount comparatively small. Let us proceed to those issued by the authority of the Legislature of 1868-'69 and '69-'70, which make up the bulk of what is called the New Debt.

There is no part of the history of North Carolina, to which an honest man who loves his State, retreats with as much pain as the history that Legislature. It seemed to be assumed by a feeling only, to bring down our dear old Commonwealth to the lowest point of degradation; to destroy, utterly, the few wrecks and remnants of property spared to us by the war. The Fraud Commission Report develops a state of acts in regard to the Legislature alike unprecedented and shocking; yet incapable of denial, being established by the sworn testimony of the chief actors. To assist the deliberations of the members a free bar room was set up in one wing of the Capitol. Being freely resorted to the sessions exhibited a continued scene of riotous and drunken revel. If the press of the State could be trusted—and it is always held to be legitimate evidence on questions like this, other sources were exhibited there of a nature that can only be darkly hinted at, scenes that belong to the lowest haunts of vice and crime. The proceedings of this Legislature were of a piece with these things. "Rings" were formed through whom only could access be had to the Legislature. At the head of these were a few of those mercenary spawn upon us at that unhappy time. With them even joined some few from our own State; fellows of the baser sort, who had been thrown up temporarily by the agitation of the war; but who had not until that time been seen. A regular Legislative brokerage was established, and whiver wanted an act passed had to pay a fee to the "Ring." What the fee on an ordinary act was, is not known; the evidence does not show. But the tariff on railroad bonds, we have under our own oath; it was ten per cent. on all the bonds voted. What the horde of members received we are ignorant of; for here, too, the evidence is silent. It was most profitable traffic, and in the prosecution of it then was thought of the people of North Carolina. No question was asked as to what were the needs of the people, or what the credit of the State would bear? The only question asked, who wants a Railroad Bill passed, and who will pay the per centage on the bonds voted? Our people had loudly expressed their indignation at some of the proceedings of the Convention. When they found out, for instance, that the change in relation to the State Debt was inserted as a basis for corrupt speculation in the old bonds; when they found out that the clause in relation to the tenure of office was fraudulently foisted in by one who piqued himself upon the cleverness with which the fraud was accomplished. These acts were indignantly denounced; but the proceedings of the Legislature so much surpassed in turpitude those of the Convention that our people were left in mute amazement. It is needless to dwell upon the proceedings of that Legislature any longer; suffice it to say, that in the name of the State of North Carolina—exhausted and prostrated by a destructive civil war—bonds were issued to an amount that would have staggered the great and prosperous States of New York or Massachusetts.

(TO BE CONTINUED.)

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