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WEDNESDAY, MARCH 6, 1867.

PRESIDENT'S MESSAGE.

MESSAGE OF THE PRESIDENT OF THE UNITED STATES, RETURNING TO THE HOUSE OF REPRESENTATIVES A BILL ENTITLED "AN ACT TO PROVIDE FOR THE MORE EFFICIENT GOVERNMENT OF THE REBEL STATES."

To the House of Representatives:

I have examined the bill "to provide for the more efficient government of the rebel States" with the care and anxiety which its transcendent importance is calculated to awaken. I am unable to give it my assent for reasons so grave, that I hope a statement of them may have some influence on the minds of the patriotic and enlightened men with whom the decision must ultimately rest.

The bill places all the people of the ten States therein named, under the absolute domination of military rulers; and the preamble undertakes to give the reason upon which the measure is based, and the ground upon which it is justified. It declares that there exists in these States no legal governments, and no adequate protection for life or property, and asserts the necessity of enforcing peace and good order within their limits. Is this true as a matter of fact?

It is not denied that the States in question have each of them an actual government, with all the powers, executive, judicial and legislative, which properly belong to a free State. They are organized like the other States of the Union, and, like them, they make, administer and execute the laws which concern their domestic affairs. An existing *de facto* government, exercising such functions as these, is itself the law of the State upon all matters within its jurisdiction. To pronounce the supreme law making power of an established State illegal, is to say that the law itself is unlawful.

The provisions which these Governments have made for the preservation of order, the suppression of crime, and the redress of private injuries, are in substance and principle the same as those which prevail in the Northern States and other civilized countries. They certainly have not succeeded in preventing the commission of all crime, nor has this been accomplished anywhere in the world. There, as well as elsewhere, offenders sometimes escape for want of vigorous prosecution, and occasionally, perhaps, by the inefficiency and prejudice of jurors. It is undoubtedly true that these evils have been much increased and aggravated, North and South, by the demoralizing influences of civil war, and the rancorous passions which the contest has engendered. But that these people are maintaining local Governments for themselves which habitually defeat the object of all government and render their own lives and property insecure, is in itself utterly improbable, and the averment of the bill to that effect is not supported by any evidence which has come to my knowledge. All the information I have on the subject convinces me that the masses of the Southern people and those who control their public acts, while they entertain diverse opinions on questions of Federal policy, are completely united in the effort to reorganize their society on the basis of peace, and to restore their national prosperity as rapidly and as completely as their circumstances will permit.

The bill, however, would seem to show upon its face that the establishment of peace and good order is not its real object. The fifth section declares that the preceding sections shall cease to operate in any State where certain events shall have happened. These events are, first, the selection of delegates to a State Convention by an election at which negroes shall be allowed to vote. Second, the formation of a State Constitution by the Convention so chosen. Third, the insertion into the State Constitution of a provision which will secure the right of voting at all elections to negroes, and to such white men as may not be disfranchised for rebellion or felony. Fourth, the submission of the Constitution for ratification to negroes and white men not disfranchised, and its actual ratification by their vote. Fifth, the submission of the State Constitution to Congress for examination and approval, and the actual approval of it by that body. Sixth, the adoption of a certain amendment to the Federal Constitution by a vote of the Legislature elected under the new Constitution. Seventh, the adoption of said amendment by a sufficient number of other States to make it a part of the Constitution of the United States. All these conditions must be fulfilled before the people of any of these States can be relieved from the bondage of military domination; but when they are fulfilled, then immediately the pains and penalties of the bill are to cease, no matter whether there be peace and order or not, and without any reference to the security of life or property. The excuse given for the bill in the preamble is admitted by the bill itself not to be real. The military rule which it establishes is plainly to be used—not for any purpose of order or for the prevention of crime, but solely as a means of coercing the people into the adoption of principles and measures to which it is known that they are opposed, and upon which they have an undeniable right to exercise their own judgment.

I submit to Congress whether this measure is not, in its whole character, scope and object, without precedent and without authority, in palpable conflict with the plainest provisions of the constitution, and utterly destructive to those great principles of liberty and humanity for which our ancestors on both sides of the Atlantic have shed so much blood and expended so much treasure.

The ten States named in the bill are divided into five districts. For each district an officer of the army, not below the rank of Brigadier General, is to be appointed to rule over the people; and he is to be supported with an efficient military force to enable him to perform his duties and enforce his authority. Those duties and that authority, as defined by the third section of the bill, are, "to protect all persons in their right of person and property, to suppress insurrection, disorder and violence, and to punish or cause to be punished all disturbers of the public peace or criminals." The power thus given to the commanding officer over all the people of each district is that of an absolute monarch. His mere will is to take the place of all law. The law of the States is now the only rule applicable to the subjects placed under his control, and that is completely displaced by the clause which declares all interference of State authority null and void. He alone is permitted to determine what are rights of person or property, and he may protect them in such way as in his discretion may seem proper. It places at his free disposal all the lands and goods in his district, and he may distribute them without let or hindrance to whom he pleases. Being bound by no State law, and there being no other law to regulate the subject, he may make a criminal code of his own; and he can make it as bloody as any recorded in history, or he can reserve the privilege of acting upon the impulse of his private passions in each case that arises. He is bound by no rules of evidence; there is indeed no provision by which he is authorized or required to take any evidence at all. Everything is a crime which he chooses to call so, and all persons are condemned whom he pronounces to be guilty. He is not bound to keep any record, or make any report of his proceedings. He may arrest his victims wherever he finds them without warrant, accusation or proof of probable cause. If he gives them a trial before he inflicts the punishment, he gives it of his grace and mercy, not because he is commanded so to do.

To a casual reader of the bill, it might seem that some kind of trial was secured by it to persons accused of crime; but such is not the case. The officer "may allow local civil tribunals to try offenders," but of course this does not require that he shall do so. If any State or Federal court presumes to exercise its legal jurisdiction by the trial of a malefactor without his special permission, he can break it up, and punish the judges and jurors as being themselves malefactors. He can save his friends from justice, and despoil his enemies contrary to justice.

It is also provided that "he shall have power to organize military commissions or tribunals;" but this power he is not commanded to exercise. It is merely permissive, and is to be used only "when in his judgment it may be necessary for the trial of offenders." Even if the sentence of a commission were made a pre-requisite to the punishment of a party, it would be scarcely the slightest check upon the officer, who has authority to organize it as he pleases, prescribe its mode of proceeding, appoint its members from among his own subordinates, and revise all its decisions. Instead of mitigating the harshness of his single rule, such a tribunal would be used much more probably to divide the responsibility of making it more cruel and unjust.

Several provisions, dictated by the humanity of Congress, have been inserted in the bill, apparently to restrain the power of the commanding officer; but it seems to me that they are of no avail for that purpose. The fourth section provides—*First*. That trials shall not be unnecessarily delayed; but I think I have shown that the power is given to punish without trial, and if so, this provision is practically inoperative. *Second*. Cruel or unusual punishment is not to be inflicted; but who is to decide what is cruel and what is unusual? The words have acquired a legal meaning by long use in the courts. Can it be expected that military officers will understand or follow a rule expressed in language so purely technical, and not pertaining in the least degree to their profession? If not, then each officer may define cruelty according to his own temper, and if it is not usual, he will make it usual. Corporeal punishment, imprisonment, the gag, the ball and chain, and the almost insupportable forms of torture invented for military punishment, lie within the range of choice. *Third*. The sentence of a commission is not to be executed without being approved by the commander, if it affects life or liberty; and a sentence of death must be approved by the President. This applies to cases in which there has been a trial and sentence. I take it to be clear, under this bill, that the military commander may condemn to death without even the form of a trial by a military commission, so that the life of the condemned may depend upon the will of two men instead of one.

It is plain that the authority here given to the military officer amounts to absolute despotism. But to make it still more unendurable, the bill provides that it may be delegated to as many subordinates as he chooses to appoint; for it declares that he shall "punish or cause to be punished." Such a power has not been wielded by any monarch in England for more than five hundred years. In all that time no people who speak the English language have borne such servitude. It reduces the whole population of the ten States—all persons, of every color, sex, and condition and every stranger within their limits—to the most abject and degrading slavery. No master ever had a control so absolute over his slaves as this bill gives to the military officers over both white and colored persons.

It may be answered to this that the officers of the army are too magnanimous, just, and humane to oppress and trample upon a subjugated people. I do not doubt that army officers are as well entitled to this kind of confidence as any other class of men. But the history of the world has been written in vain, if it does not teach us that unrestrained authority can never be safely trusted in human hands. It is almost sure to be more or less abused under any circumstances, and it has always resulted in gross tyranny where the rulers who exercise it are strangers to their subjects, and come among them as the representatives of a distant power, and more especially when the power that sends them is unfriendly. Governments closely resembling that there proposed have been fairly tried in Hungary and Poland, and the suffering endered by those people roused the sympathies of the entire world. It was tried in Ireland, and, though tempered at first by principles of English law, it gave birth to cruelties so atrocious that they are never recounted without just indignation. The French Convention armed its deputies with this power, and sent them to the Southern departments of the Republic. The massacres, murders, and atrocities which they committed show what the passions of the ablest men in the most civilized society will tempt them to do when wholly unrestrained by law.

The men of our race in every age have struggled to tie up the hands of their Governments and keep them within the law; because their own experience of all mankind taught them that rulers could not be relied on to concede those rights which they were not legally bound to respect. The head of a great empire has sometimes governed it with a mild and paternal sway; but the kindness of an irresponsible deputy never yields what the law does not extort from him. Between such a master and the people subjected to his domination there can be nothing but enmity; he punishes them if they resist his authority, and, if they submit to it, he hates them for their servility.

I come now to a question which is, if possible, still more important. Have we the power to enforce this into execution, if we answer, certainly authority from the Constitution, and if we are bound by the limitations which it imposes.

This proposition is perfectly clear that no branch of the Federal Government, executive, legislative, or judicial, can have any just powers, except those which it derives through and exercises under the organic law of the Union. Outside of the Constitution, we have no legal authority more than private citizens, and within it we have only so much as that instrument gives us. This broad principle limits all our functions, and applies to all subjects. It protects not only the citizens of States which are within the Union, but it shields every human being who comes or is brought under our jurisdiction. We have no right to do in one place, more than in another, that which the Constitution says we shall not do at all. It, therefore, the Southern States were in truth out of the Union, we could not treat their people in a way which the fundamental law forbids.

Some persons assume that the success of our arms in crushing the opposition which was made in some of the States to the execution of the Federal laws, reduced those States and all their people—the innocent as well as the guilty—to the condition of vassalage, and gave us power over them which the Constitution does not bestow, or define or limit. No fallacy can be more transparent than this. Our victories subjected the insurgents to legal obedience, not to the yoke of an arbitrary despotism. When an absolute sovereign reduces his rebellious subjects, he may deal with them according to his pleasure, because he had that power before. But when a limited monarch puts down an insurrection, he must still govern according to law. If an insurrection should take place in one of our States against the authority of the State government, and end in the overthrow of those who planned it, would that take away the rights of all the people of the counties where it was favored by a part or a majority of the population? Could they, for such a reason, be wholly outlawed and deprived of their representation in the Legislature? I have always contended that the Government of the United States was sovereign within its constitutional sphere; that it executed its laws, like the States themselves, by applying its coercive power directly to individuals; and that it could put down insurrection with the same effect as a State, and no other. The opposite doctrine is the worst heresy of those who advocated secession, and cannot be agreed to without admitting that heresy to be right.

Invasion, insurrection, rebellion, and domestic violence were anticipated when the Government was framed, and the means of repelling and suppressing them were wisely provided for in the Constitution, but it was not thought necessary to declare that the States in which they might occur should be expelled from the Union. Rebellions, which were invariably suppressed, occurred prior to that out of which these questions grew, but the States continued to exist and the Union remained unbroken. In Massachusetts, in Pennsylvania, in Rhode Island, and in New York, at different periods in our history, violent and armed opposition to the United States was carried on; but the relations of those States with the Federal Government were not supposed to be interrupted or changed thereby, after the rebellious portions of their population were defeated and put down. It is true that in these earlier cases there was no formal expression of a determination to withdraw from the Union, but it is also true that in the Southern States the ordinances of secession were treated by all the friends of the Union as mere nullities, and are now acknowledged to be so by the States themselves. If we admit that they had any force or validity, or that they did in fact take the states in which they were passed out of the Union, we sweep from under our feet all the grounds upon which we stand in justifying the use of Federal force to maintain the integrity of the Government.

This is a bill passed by Congress in time of peace. There is not in any one of the States, brought under its operation, either war or insurrection. The laws of the States and of the Federal Government are all in undisturbed and harmonious operation. The courts—State and Federal, are open, and in the full exercise of their proper authority. Over every State, comprised in these five military districts, life, liberty and property are secured by State laws and Federal laws, and the national constitution is every where in force and everywhere obeyed. What, then, is the ground on which this bill proceeds? The title of the bill announces that it is intended "for the more efficient government" of these ten States. It is recited, by way of preamble, that no legal State governments, nor adequate protection for life or property, exist in those States, and that peace and good order should be thus enforced. The first thing which arrests attention upon these recitals, which prepare the way for martial law, is this—that the only foundation upon which martial law can exist, under our form of government, is not stated or so much as pretended. Actual war, foreign invasion, domestic insurrection, none of these appear; and none of these in fact exist. It is not even recited that any sort of war and insurrection is threatened. Let us pause here to consider, upon this question of constitutional law and the power of Congress, a recent decision of the Supreme Court *in ex parte* Milligan.

I will first quote from the opinion of the majority of the Court: "Martial law cannot arise from a threatened invasion. The necessity must be actual and present, the invasion real, such as effectually closes the courts and deposes the civil administration." We see that martial law comes in only when actual war closes the courts and deposes the civil authority; but this bill, in time of peace, makes martial law operate as though we were in actual war, and become the *cause*, instead of the *consequence*, of the abrogation of the civil authority. One more quotation: "It follows from what has been said on this subject that there are occasions when martial law can be properly applied. If in foreign invasion or civil war the courts are actually closed, and it is impossible to administer criminal justice according to law, *then*, on the theatre of active military operations, where war really prevails, there is a necessity to furnish a substitute for the civil authority thus overthrown, to preserve the safety of the army and society; and, as no power is left but the military, it is allowed to govern by martial rule until the laws can have their free course."

I now quote from the opinion of the minority of the Court, delivered by Chief Justice Chase: "We by no means assert that Congress can establish and apply the laws of war where no war has been declared or exists. Where peace exists, the laws of peace must prevail." This is sufficiently explicit. Peace exists in all the territory to which this bill applies. It asserts a power in Congress, in time of peace, to set aside the laws of peace and to substitute the laws of war. The minority, concurring with the majority, declares that Congress does not possess that power. Again, and, if possible, more emphatically, the Chief Justice, with remarkable clearness and condensation, sums up the whole matter as follows:

"There are under the Constitution three kinds of military jurisdiction—one to be exercised both in peace and war; another to be exercised in time of foreign war without the boundaries of the United States, or in time of rebellion and civil war within States or districts occupied by rebels treated as belligerents; and a third to be exercised in time of invasion or insurrection within the limits of the United States, or during rebellion within the limits of the States maintaining adhesion to the National Government, when the public danger requires its exercise. The first of these may be called jurisdiction under *Military Law*, and is found in acts of Congress prescribing rules and articles of war, or otherwise, providing for the government of the national forces; the second may be distinguished as *Martial Law proper*, and is called into action by Congress, or temporarily, when the action of Congress cannot be waited, and in the case of justifying or excusing peril, by the President, in times of insurrection or invasion or of civil or foreign war, within districts or localities where ordinary law no longer adequately secures public safety and private rights."

It will be observed that of the three kinds of military jurisdiction which can be exercised or created under our Constitution, there is but one that can prevail in time of peace, and that is the code of laws enacted by Congress for the government of the national forces. That body of military law has no application to the citizen, nor even to the citizen soldier enrolled in the militia in time of peace. But this bill is not a part of that sort of military law, for that applies only to the soldier and not to the citizen, whilst, contrarwise, the military law provided by this bill applies only to the citizen and not to the soldier.

I need not say to the Representatives of the American people that their Constitution forbids the exercise of judicial power in any way but one—that is by the ordained and established courts. It is equally well known that in all criminal cases a trial by jury is made indispensable by the expressed words of the instrument. I will not enlarge on the inestimable value of the right thus secured by every freeman, or speak of the danger to public liberty which must ensue from a denial of it anywhere upon any pretence. A very recent decision of the Supreme Court has traced the history, vindicated the dignity, and made known the value of this great privilege so clearly that nothing more is needed. To what extent a violation of it might be excused in time of war or public danger may admit of discussion, but we are providing now for a time of profound peace, when there is not an armed soldier within our borders except those who are in the service of the government. It is in such a condition of things that an act of Congress is proposed which, if carried out, would deny a trial by the lawful courts and juries to nine millions of American citizens, and to their posterity, for an indefinite period. It seems to be scarcely possible that any one should seriously believe this consistent with a Constitution which declares, in simple, plain and unambiguous language, that all persons shall have that right, and that no person shall ever in any case be deprived of it. The Constitution also forbids the arrest of the citizen without judicial warrant, founded on probable cause. This bill authorizes an arrest without warrant, at the pleasure of a military commander. The Constitution declares that "no person shall be held to answer for a capital or otherwise infamous crime, unless on presentation by a grand jury." This bill holds every persons not a soldier, answerable for all crimes and all charges without any presentment. The Constitution declares that "no person shall be deprived of life, liberty, or property without due process of law." This bill sets aside all process of law, and makes the citizen answerable in his person and property to the will of one man, and as to his life to the will of two. Finally, the Constitution declares that "the privilege of the writ of *habeas corpus* shall not be suspended unless when, in cases of rebellion and invasion, the public safety may require it;" whereas this bill declares martial law (which of itself suspends this great writ) in time of peace, and authorizes the military to make the arrest, and gives the prisoner only one privilege, and that is a trial 'without unnecessary delay.' He has no hope of release from custody, except the hope, such as it is, of release by acquital before a military commission.

The United States are bound to guarantee to each State a republican form of government. Can it be pretended that this obligation is not palpably broken if we carry out a measure like this, which wipes away every vestige of republican government in ten States and puts the life, property, liberty and honor of all the people in each of them under the domination of a single person clothed with unlimited authority?

The Parliament of England, exercising the omnipotent power which it claimed, was accustomed to pass bills of attainder; that is to say, it would convict men of treason and other crimes by legislative enactment. The person accused had a hearing, sometimes a patient and fair one; but generally party prejudice prevailed instead of justice. It often became necessary for Parliament to acknowledge its error and reverse its own action. The fathers of our country determined that no such thing should occur here. They withheld the power from Congress, and thus forbade its exercise by that body; and they provided in the Constitution that no State should pass any bill of attainder. It is, therefore, impossible for any person in this country to be constitutionally convicted or punished for any crime by a legislative proceeding of any sort. Nevertheless, here is a bill of attainder against nine millions of people at once. It is based upon an accusation so vague as to be scarcely intelligible, and found to be true upon no credible evidence. Not one of the nine millions was heard in his own defence. The representatives of the doomed parties were excluded from all participation in the trial. The conviction is to be followed by the most ignominious punishment ever inflicted on masses of men. It disfranchises them by hundreds of thousands, and degrades them all—even those who are admitted to be guiltless—from the rank of freemen to the condition of slaves.

The purpose and object of the bill the general intent which pervades it from beginning to end—is to change the entire structure and character of the State governments, and to compel them by force to the adoption of the organic laws and regulations which they are unwilling to accept if left to themselves. The negroes have not asked for the privilege of voting—the vast majority of them have no idea what it means. This bill not only thrusts it into their hands, but compels them, as well as the whites, to use it in a particular way. If they do not form a constitution with prescribed articles in it, and afterwards elect a Legislature which will act upon certain measures in a prescribed way, neither blacks nor whites can be relieved from the slavery which the bill imposes upon them. Without pausing here to consider the policy or impolicy of Africanizing the Southern part of our territory, I would simply ask the attention of Congress to that manifest, well known and universally acknowledged rule of constitutional law, which declares that the Federal government has no jurisdiction, authority or power to regulate such subjects for any State. To force the right of suffrage out of the hands of the white people and into the hands of the negroes is an arbitrary violation of this principle.

This bill imposes martial law at once, and its operations will begin so soon as the General and his troops can be put in place. The dread alternative between its harsh rule and compliance with the terms of this measure is not suspended, nor are the people allowed any time for free deliberation. The bill says to them, take martial law first, then deliberate. And when they have done all that this measure requires them to do, other conditions and contingencies, over which they have no control, yet remain to be fulfilled before they can be relieved from martial law. Another Congress must first approve the Constitutions made in conformity with the will of this Congress, and must declare these States entitled to representation in both Houses. The whole question thus remains open and unsettled, and must again occupy the attention of Congress, and in the meantime the agitation which now prevails will continue to disturb all portions of the people.

The bill also denies the legality of the governments of ten of the States which participated in the ratification of the amendment to the Federal Constitution abolishing slavery forever within the jurisdiction of the United States, and practically excludes them from the Union. If this assumption of the bill be correct, their concurrence cannot be considered as having been legally given, and the important fact is made to appear that the consent of three fourths of the States—the requisite number—has not been constitutionally obtained to the ratification of that amendment, thus leaving the question of slavery where it stood before the amendment was officially declared to have become a part of the Constitution.

That the measure proposed by this bill does violate the Constitution in the particulars mentioned and in many other ways which I forbear to enumerate, is too clear to admit of the least doubt. It only remains to consider whether the injunctions of that instrument ought to be obeyed or not. I think they ought to be obeyed, for reasons which I will proceed to give as briefly as possible.

In the first place, it is the only system of free government which we can hope to have as a nation. When it ceases to be the rule of our conduct, we may perhaps take our choice between a complete anarchy, a consolidated despotism, and a total dissolution of the Union; but national liberty, regulated by law, will have passed beyond our reach.

It is the best frame of government the world ever saw. No other is, or can be so well adapted to the genius, habits or wants of the American people. Combining the strength of a great empire with unspeakable blessings of local self-government—having a central power to defend the general interests, and recognizing the authority of the State as the guardians of industrial rights, it is "the sheet-anchor of our safety abroad and our peace at home." It was ordained "to form a more perfect Union, establish justice, insure domestic tranquility, promote the general welfare, provide for the common defense, and secure the blessings of liberty to ourselves and to our posterity." These great ends have been attained heretofore, and will be again, by faithful obedience to it, but they are certain to be lost if we treat with disregard its sacred obligations.

It was to punish the gross crime of defying the Constitution, and to vindicate its supreme authority, that we carried on a bloody war of four years' duration. Shall we now acknowledge that we sacrificed a million of lives and expended billions of treasure to enforce a Constitution which is not worthy of respect or preservation?

Those who advocated the right of secession alleged in their own justification that we had no regard for law, and that their rights of property, life, and liberty would not be safe under the constitution as administered by us. If we now verify their assertion, we prove that they were in truth and in fact fighting for their liberty, and instead of branding their leaders with the dishonoring name of traitors against a righteous and legal government, we elevate them in history to the rank of self sacrificing patriots, consecrate them to the admiration of the world, and place them by the side of Washington, Hampden and Sidney. No, let us leave them to the infamy they deserve, punish them as they should be punished, according to law, and take upon ourselves no share of the odium which they should bear alone.

It is a part of our public history which can never be forgotten that both Houses of Congress, in July 1861, declared in the form of a solemn resolution that the war was and should be carried on for no purpose of subjugation, but solely to enforce the Constitution and laws; and that when this was yielded by the parties in rebellion, the contest should cease, with the constitutional rights of the States and of individuals unimpaired. This resolution was adopted and sent forth to the world unanimously by the Senate and with only two dissenting voices in the House.—It was accepted by the friends of the Union in the South, as well as in the North, as expressing honestly and truly the object of the war. On the faith of it, many thousands of persons in both sections gave their lives and their fortunes to the cause. To repudiate it now by refusing to the States and to the individuals within them the rights which the Constitution and laws of the Union would secure to them, is a breach of our plighted honor for which I can imagine no excuse, and to which I cannot voluntarily become a party.

The evils which spring from the unsettled state of our Government will be acknowledged by all. Commercial intercourse is impeded, capital is in constant peril, public securities fluctuate in value, peace itself is not secure, and the sense of moral and political duty is impaired. To avert these calamities from our country, it is imperatively required that we should immediately decide upon some course of administration which can be steadfastly adhered to. I am thoroughly convinced that any settlement or compromise, or plan of action which is inconsistent with the principles of the Constitution, will not only be unavailing, but mischievous; that it will but multiply the present evils instead of removing them.—The Constitution, in its whole integrity and vigor, throughout the length and breadth of the land, is the best of all compromise. Besides, our duty does not, in my judgment, leave us a choice between that and any other. I Believe that it contains the remedy that is so much needed, and that if the co-ordinate branches of the Government would unite upon its provisions, they would be found broad enough and strong enough to sustain in time of peace, the nation which they bore safely through the ordeal of a protracted civil war. Among the most sacred guarantees of that instrument are those which declare that "each State shall have at least one Representative," and that "no State without its consent shall be deprived of its equal suffrage in the Senate." Each House is made the "judge of the elections, returns, and qualifications of its own members," and may, "with the concurrence of two thirds, expel a member." Thus, as heretofore urged, "in the admission of Senators and Representatives from any and all of the States, there can be no just ground of apprehension that persons who are disloyal will be clothed with the powers of legislation; for this could not happen when the Constitution and laws are enforced by a vigilant and faithful Congress." "When a Senator or Representative presents his certificate of election, he may at once be admitted or rejected, or, should there be any question as to his eligibility, his credentials may be referred for investigation to the appropriate committee. If admitted to a seat, it must be upon evidence satisfactory to the House of which he thus becomes a member, that he possesses the requisite constitutional and legal qualifications. If refused admission as a member for want of due allegiance to the Government, and returned to his constituents, they are admonished that none but persons loyal to the United States will be allowed a voice in the Legislative Councils of the nation, and the political power and moral influence of Congress are thus effectively exerted in the interests of loyalty to the Government and fidelity to the Union." And is it not far better that the work of restoration should be accomplished by simple compliance with the plain requirements of the Constitution, than by a recourse to measures which in effect destroy the States and threaten the subversion of the General Government? All that is necessary to settle this simple but important question, without further agitation or delay, is a willingness on the part of all to sustain the Constitution and carry its provisions into practical operation. If to-morrow, either branches of Congress would declare that, upon the presentation of their credentials, members constitutionally elected and loyal to the General Government would be admitted to seats in Congress, while all others would be excluded and their places remain vacant until the selection by the people of loyal and qualified persons; and if, at the same time, assurance was given that this policy would be continued until all States were represented in Congress, it would send a thrill of joy throughout the entire land, as indicating the inauguration of a system which must speedily bring tranquility to the public mind.

While we are legislating upon subjects which are of great importance to the whole people, and which must affect all parts of the country, not only during the life of the present generation, but for ages to come, we should remember that all men are entitled at least to a hearing in the councils which decide upon the destiny of themselves and their children. At present ten States are denied representation, and when the Fortieth Congress assembles on the fourth day of the present month, sixteen States will be without a voice in the House of Representatives. This grave fact, with the important questions before us, should induce us to pause in a course of legislation which, looking solely to the attainment of political ends, fails to consider the rights it transgresses, the law which it violates, or the institution which it imperils.

ANDREW JOHNSON.

WASHINGTON, March 2, 1867.

To the Voters of the 49th. Senatorial District of N. C.

RALEIGH, N. C. March 2d, 1867.

Fellow Citizens.—As the legislation (for this session, at least, is about finished, I desire to address you a short letter, not having time to write you at length. We have been in session about forty days and passed between one and two hundred laws. The greater portion of them are of a local or private nature; their effect upon the interest of the county can only be known by the unerring test of experience. Our object was to accomplish good, and, to that end, many corporations were granted, with the view of inviting capital to the State, and to aid the different railroads of the State to carry on their works to completion. But, unfortunately to the interests of all the Railroads, we failed to make any provision to meet the interest on the bonds of the State, which I greatly fear, will defeat that great, and desirable object, (the completion of the roads at an early day,) and may prove ruinous to the credit of the State. The scarcity of money, and inability of the people to bear the amount of taxation necessary to meet the interest on the public debt at this time, together with the threatening attitude of the Congress of the U. S. towards us, is about all the reasonable excuse we have to offer you for not sustaining the credit of your State. Having lost everything in the war, the majority of the Legislature decide that we are not able to pay the debt now. And for the same reasons we have passed a stay law, extending the collection of debts one year longer than provided for in the old stay law. And for the same reason the House of Commons refused to passed the bill establishing a Penitentiary for the State. I regarded that measure as an absolute necessity, and succeeded in convincing the Senate that it was so, and it passed that body by a large majority, but failed to pass the house. The bill provided for its ratification by the people before it was to become a law.

The Revenue tax bill is about the same as last year, except that the poll tax is reduced to fifty cents, and the tax is taken entirely off of brandy, so far as this State is concerned. The tax on whiskey is the same as last year. The people in our part of the State have no right to complain of unequal taxation in this bill; it bears quite as heavily on all other sections of the State as it does on the west.

Let me again bear testimony to the good behavior of Western members. I have heard no charge of drunkenness against a single member West of the Blue Ridge. The captions of the different acts of Assembly will probably accompany this letter, which will give you an idea of the legislation perfected this session,—hoping that the acts themselves will soon be published and furnished to the different counties.

The appeals of the people for relief, in the way of a stay law or to stop the courts and magistrates from acting on debts, was so pressing, that the Legislature could not well resist them; so much so that we have perhaps exercised a doubtful power, and one that the Supreme Court may, at its next sitting, decide unconstitutional. But, in that event, the Legislature may pass another at its next session, which meets the 3rd. Monday in August. My advice, therefore, to all my friends, both debtor and creditor, is to compromise all their old debts on amicable terms, justly and fairly to both parties, neither exacting too much. There are many hard cases both ways; each can judge better what his neighbor can afford to do than Legislators or courts either can decide on general principles, as they have to do, when decided by them.

It is of the utmost importance that we agree among ourselves. The Southern States are reaping the fruits of an unfortunate (and I might say, without intending offence, a foolish) war, and the furnace of our afflictions is being heated seven times hotter by a crazy and fanatic Congress, who will likely over-ride the President and will assuredly neutralize the powers of the Supreme Court, thereby destroying all the hopes we ever had of final justice. Twelve months ago, I became convinced that the Congress did not intend that we should be restored to our equal representation until after the next Presidential election, unless they could have some assurance that the States would vote the Republican ticket is that election. I am still convinced that they still adhere to the same determination, but did not think they would disregard the Constitution of the United States to the extent of entirely overriding both the executive and judicial departments of the government. But I am pained to inform you that the Congress has passed a law placing the Southern States under a military government, with the authority to call conventions, form new constitutions and submit them to Congress for their ratification or rejection. And that all persons excluded from holding office, under the 3rd article of the Howard amendment, shall be excluded both from office and the ballot box, and that all male negroes 21 years old shall be allowed to vote and hold office in said Provisional or Military governments as well as be members of the Convention or Congress; and that after these things are done, the States may be restored and entitled to representation, *provided* the Constitution be approved by Congress, and the members sent to Congress can take the test oath. It will not make our condition more tolerable, when I inform you that these things are being forced on us in compliance with the petitions and solicitations of hundreds and thousands of our own fellow citizens, praying the Congress to inflict these things upon us, as they represent, for the protection of Union men of both colors, whose life and property they represent to be unsafe in the Southern States. I have declared, on all occasions, that the charge was a foul slander on our people. I claim to be a Union man of the original panel, when it took some moral courage to be a Union man, and I declare I have never known the life or property of either endangered on account of loyalty since the surrender. It does not require as much moral courage to be a Union man now as it did during the rebellion; hence so much noise about it by men who were scarcely known to be Union men then. But let us forgive, and, if possible, forget the past, and in the future live like brothers.

But, fellow-citizens, things are travelling with such rapidity to (as I fear) our destruction, that I am unable to advise for the best, but rather ask of you what is to be done? I had hoped that the President's veto would have been received, and this letter has been postponed to the last hour for that purpose; but it has not been received. Were I to advise, it would be to do whatever the President advised us to do, provided we could afford to do it. There are some things that conscientious, honorable men cannot afford to do voluntarily. But President Johnson is our real friend, and would not advise us wrong, knowingly. It is easy to see the intention and policy of those who are seeking our injury. Their plan is to call a Convention by primary meetings through a secret organization, without any authority or form of law, procure the negro vote for delegates to a Convention, disfranchise the remainder of the white people who will not join them, and have their new government recognized by the military authority.—then take things their own way generally, without once stopping to think what a condition things would soon be in when two-thirds of the voters were black and uneducated. I would beg of those who are endeavoring to force that thing upon us, more especially if they live among us and have families, for conscience sake, if all the black people vote, let all the white vote too. Is it not easier to make a loyal man out of a rebel than to make a white man out of a black one? or easier to make loyal people out of rebel's children, than to make white people out of black people's children?

I hope these things will be pondered well by all parties, and be decided with judgment and reason, and not passion.

Respectfully yours,

L. S. GASH.

Governor Swann's Message of Declination.

BALTIMORE, March 1.—Governor Swann to day sent a message to the Legislature declining the United States Senatorship for six years from the 4th instant, to which he was recently elected. He says the honor had been conferred on him without solicitation or agency on his part, and it was his intention to accept the office; but he has been visited by so many and such urgent appeals from the representative men of the State that he did not feel at liberty to consult any individual preferences of his own. He had no motive of personal ambition that could for a moment influence him to disregard his paramount obligations to his State. With some further explanation, he declines senatorial honors, and announces his adherence to the gubernatorial chair.

SUITS.—It seems, from what we hear, that everybody in this section who has a debt due him is instituting proceedings to obtain judgement upon it.—*Lenoiburg News.*