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THE NEWS.

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GOVERNOR'S MESSAGE.

STATE OF NORTH CAROLINA,
EXECUTIVE DEPARTMENT.
Raleigh, Nov. 19, 1866.

To the Honorable,
The General Assembly of North Carolina:

GENTLEMEN:—The attention of this whole nation is now specially directed to the anomalous condition of our national affairs. It seems fit, therefore, that our consideration should be primarily directed to the restoration of national order and harmony. Although we are now denied any legislative participation in the conduct of the government of the United States, we should not be listless as to passing events, nor unmindful of the benefits to be derived from an occasional review of the past. More than eighteen months ago a bloody sectional war was closed by the total overthrow of the weaker, by the stronger section. Its declared object, on the one side, was to break up the Union;—on the other to preserve it. It ended as might have been expected. The commanders of the Southern armies, after the South was completely exhausted, as to every thing which constitutes strength in war, and after exhibitions of valor in the field which astonished the world, surrendered on the stipulation of immunity to the surrendering forces. Arms had established the supremacy of the Union. Not a guerilla party in the South remained under arms. The whole people of the South, whether they had favored the inception of the war or sympathized with their section after it had began or not, gave every evidence they could give of their submission to the result of the conflict, and their willingness to obey the Constitution and laws of the United States. What was then in the way of an immediate restoration of the Union? The machinery of government in the Southern States was in the hands of those who had given their adhesion to the rebellion. This was a state of things not contemplated by the Constitution of the United States. Precedent furnished no guidance in altering the machinery of the rebellious State governments, so as to work in harmony with the national government. The President, who owed his elevated position to his reputation for statesmanship, and the consistent devotion of his life to the preservation of the Union, held that he ought not to recognize the officers of the States who had given their adhesion to the rebellion, even so far as to make them the instruments of reorganization; that while the States existed, and the Union had been preserved, there were, in these States, no legislative, judicial, or executive officers lawfully constituted. To enable these States to reform their Constitutions, and the machinery of their governments, he granted amnesty to the people who had favored the rebellion,—with certain exceptions,—on the condition of their renewing allegiance to the United States by taking an oath to support the Constitution,—reserving the right to grant pardons, upon special applications, to such individuals of the excepted classes as he might deem deserving of them. He appointed Provisional Governors, under whose orders elections were held for delegates to State Conventions, those only being allowed to vote at such elections, to whom general or special pardons had been granted. The great body of the people complied with the conditions, and voted at such elections. When our Convention assembled, it was understood that the President, and the people of the dominant States, expected of us three amendments of our Constitution, as essential to harmonious Union, and permanent reconciliation, to wit: the renunciation of the doctrine of secession; the abolition of slavery; and the repudiation of the debt contracted in the prosecution of the rebellion; and the ratification by the Legislature, thereafter to assemble, of an amendment to the Constitution of the United States, proposed during the war, abolishing slavery throughout the United States. From all we could learn from the press, the avowals of representative men of the North, and all the sources of information, we entertained no doubt that these views of the President were approved by the great body of those who elected him. Many of our people deemed some of these terms hard and injurious to the well-being of the State; but regarding them as the conditions to restored amity, prescribed by our conquerors, they were accepted with remarkable unanimity, and have since been observed with strict fidelity. One of them reduced from affluence to poverty a large number of our people, in no wise responsible for this sectional war. We accepted them, because we thought these terms were required by the victors from the vanquished, as all that was required of us as preliminaries to the restoration of concord between the late belligerents. We elected Senators and Representatives to Congress, with all the qualifications prescribed in the Constitution. We were not ignorant that Congress, during the war, had prescribed an oath of office, commonly known as the "test oath," which very few, if any of our people who had remained citizens of the State, during the war, could conscientiously take. We regarded this act as unconstitutional. Article C, Section 3, of the Constitution of the United States, provides that Senators and Representatives and other officers "shall be bound by oath or affirmation, to support the Constitution of the United States." If Congress have the power to add to this oath such further oath as it may deem expedient, it is manifest that any *party*, having temporary ascendancy in Congress, can prescribe an oath which will exclude from Congress all who do not agree in sentiment with the dominant party. This principle would destroy the very basis of our national government. It was never intended that a *party*, having temporary ascendancy, should have authority to make its ascendancy perpetual. We believed, from the resolutions of Congress passed during the war, and the manifest requirements of enlightened policy, that the North was willing to restore friendly relations with the South, and nobody could expect any cordiality to be restored, while this statute was held to be in force. We expected it to be repealed, or to be declared unconstitutional and void by the Supreme Court of the United States, in which tribunal, fortunately for the cause of civil liberty, partizanship has as yet made but slight inroads. We believed that the constitutional guards, and the virtue and intelligence of the electors, were a sufficient protection against disloyal men finding their way into the national councils, or, if experience should indicate the necessity of others, they would be provided in amendments of the Constitution, and not in partizan legislation. In the matter of electing our Senators and Representatives to Congress, every citizen who had advocated the doctrine of secession before the war, or taken conspicuous part in the military conflict, delicately forebore to ask for a seat in Congress. Although human experience has taught that those who (right or wrong) have exhibited manly courage in military conflict, rarely disregarded the terms of capitulation when conquered, in this State, no one who had favored the initiation of the war, or distinguished himself in the field during its progress, asked to be make a member of Congress. Every Senator and Representative elected had always opposed secession until the United States could no longer protect his person or property. Up to this time, we thought the wise and magnanimous policy of the President was about to produce at an early day, the beneficent results he contemplated. A few days before the meeting of Congress, after we had complied with all these supposed preliminaries to national reconciliation, speeches of distinguished partizan leaders of the Congress soon to assemble, gave us premonitions of the purposes of the dominant party. I need not remind you of the chilling shock we received when the action of the dominant party in Congress announced that our members, irrespective of their qualifications, would not be received—and that the Union, for the preservation of which so many lives had been lost, and so frightful a national debt had been created, should be practically dissolved until it should be the pleasure of the dominant party majority to restore it. Up to this time, this fraction of the Congress contemplated by the Constitution of the United States, exercise the legislative power, without declaring when, if ever, or upon what conditions, the people of the other States they govern shall have representation, and the recent elections in the dominant States sanction this action. It is proper to refer to the actions of the people and the authorities of this State, in the interim of these extraordinary national movements. Not a guerrilla party existed in the late rebellious States. In this State not a single instance has occurred where a Sheriff has had occasion, since the surrender, to require a *posse* or other aid to execute civil process. Our bench of Judges have executed their duties in a manner which would have given lustre to the Judiciary of any period in the history of the world. The steadiness with which our Judges have held the scales of justice has at last extorted praise even from those who, at first, studied to malign them. A few of the agents of the Freedmen's Bureau, and I grieve to say, a few of our own people, who seek to propitiate the favor of our conquerors by furnishing aliment to their unjust prejudices, have sought to make the impression, at the North, that freedmen and Union men could not have justice at the hands of our Courts. To this end emissaries have been employed to traverse the country and record *ex parte* statements to cast odium on the administration of justice—petitions have been covertly got up by some of our own citizens and sent to the President of the United States, charging disloyalty to our people and favoritism to our Courts, to embitter against us the virtuous classes of the North. Amongst us these machinations are well understood. The virtuous and intelligent men of the North who have settled among us, and especially the soldiers who stood in front of the fight, on both sides, in the late conflict of arms, despise these slanders. Through the agency of whole-souled men, public opinion, it is hoped, will soon reach a healthy state. Our judges, unmoved by these unworthy imputations and unawed by intimations that they would be suspended from the exercise of their functions, if their adjudications did not accord with the dominant party, have silenced slander itself. No murmur is now heard against the fairness with which justice is administered in our courts. The fearful increase of crime, the natural sequent of a civil war in which disrespect for the rights of non-combatants was authoritatively countenanced, if not encouraged, is being rapidly repressed, and reverence for justice is having its natural triumph. Our Legislative Department has been anxiously endeavoring to alter our Code to suit our novel situation, and to bring order out of the chaos produced by the late convulsion. This review of our national affairs brings us to the present period.

THE CONSTITUTIONAL AMENDMENT.

In June last I received from the Hon. W. H. Seward, Secretary of State of the United States, a communication herewith transmitted to you, covering an attested copy of a joint resolution of Congress, proposing a fourteenth article as an amendment to the Constitution of the United States. It proposes—*First*,—That "all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." *Second*,—That "no State shall make or enforce any law which shall abridge the privileges or immunities of the citizens of the United States." *Third*,—That "no State shall deprive any person of life, liberty or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of its laws." *Fourth*,—That "representatives shall be apportioned among the several States according to their respective numbers counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for the President and Vice President of the United States, representatives in Congress, the Executive and Judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State." *Fifth*,—That "no person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same. But Congress may, by a vote of two thirds of each House, remove such disability." *Sixth*,—That "the validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned." *Seventh*,—That "neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void." *Eighth*,—That "the Congress shall have the power to enforce, by appropriate legislation, the provisions of this article."

The Constitution provides that "the House of Representatives shall be composed of members, chosen every second year by the people of the several States," and that "the Senate of the United States shall be composed of two Senators from each State." This proposition is not made to us by a Congress so composed, this State, with eleven others, being denied representation in the body which proposed thus to abandon the fundamental law. It was the clear intention of the Constitution that every State should have a right to representation in a Congress proposing alterations in the original articles of compact; and on this account, alone, no State, pretending to have rights under the Constitution, can, with proper scrupulousness and dignity, ratify an amendment thus proposed. It is remarkable that this proposed amendment contemplates, under *one article*, to change the Constitution in eight particulars, some of them totally incongruous to be ratified as a *whole*. We are not allowed to ratify such of them as we approve, and reject those we disapprove. This is the first attempt to introduce the vice of omnibus legislation into the grave matter of changing the fundamental law. In 1789, Congress proposed to the States, pursuant to the 5th article of the Constitution, twelve new articles as amendments. Ten of these were ratified by three fourths of the States. The resolution by which these articles were submitted to the States, authorizes the States to ratify "*all or any of them.*" Ten of them were ratified—two were rejected. Each of the other three amendments which have been adopted, to wit: the *eleventh*, recommended in 1794, the *twelfth* in 1803, and the *thirteenth* in 1865, was confined to one matter. To some of the provisions of this proposed *fourteenth* article, constitutionally, submitted to us, there would probably be no objection. To others, or the heterogeneous whole, it is hoped the State will never give her assent. A commentary on all the proposed amendments would make this document inordinately long. A few remarks, on one or two of them, may not be inappropriate. Under our laws, made in conformity to the Constitution of the United States, every one of the following State officers, who entered on the discharge of his duties prior to the 20th day of May, 1861, took the oath to support the Constitution of the United States, viz: the Governor, Judges of the Supreme and Superior Courts, Public Treasurer, Secretary of State, Comptroller, Justices of the Peace, Sheriffs, Clerks of the County and Superior Courts, Clerks and Masters in Equity, Clerk of the Supreme Court, Constables, County Trustees, Coroners, Registers, entry-takers, processioners, rangers, standard-keepers, surveyors, every officer of the militia, Attorney General, State and County Solicitors, every member of the General Assembly, and every other officer, holding any office of trust or profit in this State. Every lawyer was likewise required to take it, though the right to practice law has not been held to be an office of trust or profit. The persons who had held these offices prior to the war comprise a vast proportion of the population of the State. All postmasters and others who had held office under the U. States, had also taken this oath. These classes embraced the great body of the intelligence of the State.

When war had been inaugurated,—when one section had confronted the other in military conflict,—when personal security compelled obedience to those in *de facto* authority, who, of all these classes of officers, who remained in the State, did not join his own section in the fight, or give "aid and comfort" in the technical sense of this phrase, or in the sense which future interpretation may assign to it, to those who did join in it?—Scarcely a man remained among us who can conscientiously say that he gave no "aid and comfort" to the Southern soldiers, during the conflict. But strange to say!—this amendment leaves eligible to office any one who went into a convention, and voted for the ordinance of secession, and any one who voluntarily took up arms and fought on the side of the South to the end of the war, or held a seat in the Confederate Congress, provided such person had never taken an oath to support the Constitution of the United States.

If it be held that a deeper shade of guilt attaches to those who had held office and taken this oath, than to others who owed like allegiance to the United States; is a lawyer who has taken that oath and afterwards joined in the rebellion, less guilty than a constable or a post-master, or other inferior officer who had taken the oath and afterwards given aid to the rebellion? If it be said that the dispensing power reserved to two-thirds of Congress may be relied on to prevent any special hardship, it is inconceivable how so large a body, charged with so many more important duties, could exercise this power with justice or discretion. If this amendment should be ratified, it is believed that not a single one could be found in the State who was, before the war, a Governor, a Judge of the Supreme or Superior Court, a member of Congress, or member of the General Assembly of this State who would be eligible as a county register or village postmaster, without this dispensation of two thirds of Congress. The advocates of this amendment urge that if we reject it, we must expect, from the dominant party in Congress, calamities still more dire than we have yet felt. There is no warrant for either assertion. It would have been as unbecoming in Congress to offer it to us under any such promise, or such threat, as it would be degrading to us to ratify it under such circumstances. It should be considered solely in reference to its fitness to form a part of the fundamental law of a country claiming high position among enlightened and Christian nations. The fifth section of this proposed article has the same import, and is intended to convey as much power, as if it were repeated at the end of each one of the four proceeding sections. The original Constitution, in closing the catalogue of the powers of Congress, gives the authority "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers vested by this Constitution in the Government of the United States or any department or officer thereof." This authority has always been understood to apply to power conferred on the government of the United States, by amendments subsequently made, and has repeatedly received the consideration of the judiciary. If the design of this fifth section is simply to re-affirm the long established principle of power necessarily implied under the provision just recited, it is needless surplusage; but if, as its special insertion indicates, it is intended to amplify the various powers which would be reasonably implied from the sections which precede it, and to give to Congress a peculiar authority over the subjects embraced in the proposed fourteenth article, it is mischievous and dangerous.

If there be any feature in the American system of freedom which gives to it practical value, it is the fact that a municipal code is provided under the jurisdiction of each State, by which all controversies as to life, liberty or property, except in the now limited field of Federal jurisdiction, are determined by a jury of the county or neighborhood where the parties reside and the contest arises; but, if Congress is hereafter to become the protector of life, liberty and property in the States, and the guarantor of equal protection of the laws; and by appropriate legislation to declare a system of rights and remedies, which can be administered only in the Federal Courts, then the most common and familiar officers of justice must be transferred to the few points in the State where these courts are held, and to judges and other officers, deriving and holding their commissions, not from the authority and people of the State as heretofore, but from the President and Senate of the United States. The States, as by so much, are to cease to be self-governing communities as heretofore, and trespasses against the person, assaults and batteries, false imprisonments and the like, where only our own citizens are parties, must be regulated by the Congress of the Nation and adjudged only in its courts. I cannot believe that the deliberate judgment of the people of any State of any section will approve such an innovation, for although its annoyances may be ours to day, they must expect them to be theirs to-morrow. The people of this State, with a singular approach to unanimity, are sincerely desirous of a restoration of their constitutional relations with the American Union. In the face of circumstances, rendering it nearly impossible, they have paid its government the taxes of former years, laid when another *de facto* government whose powers they could not have resisted if they would, was making levies in money and kind almost greater than they could bear; they acquiesced in the extinction of slavery, which annihilated more than half their wealth; they have borne with patience the exclusion of their Senators and Representatives from the halls of Congress where they have had no one to contradict or explain the most exaggerated misrepresentations, or even to make known their grievances. How long this unnatural condition of our relations is to continue, it seems, we shall be allowed to have no share in determining. No time has been set, and no conditions proposed, on which it may be terminated. In the meantime, I trust, we shall meet events as they arise with a reasonable and manly fortitude, ready at all times to fulfill our duties as patriotic citizens, but under no circumstances willing to sacrifice the honor and rights of the State, as a member of the Union, not in the sense of the advocates of secession, but as taught by Iredell and Marshall and Story and Kent and Webster, and in which moderate men everywhere, North and South, before the war, were supposed to concur. Anxious as I was to avert the late war, and have at all times been to compose our troubles on the basis of the Union as our fathers framed it, I can perceive in this proposed amendment nothing calculated to perpetuate the Union; but its tendency seems to me better suited to perpetuate sectional alienation and estrangement, and I have, therefore, no hesitation in recommending that it be not ratified.

THE AFRICAN RACE.

Most of the African race among us were lately slaves. Their masters cared for their subsistence. Their habits illy fit them to provide for their indispensable daily wants. Nothing can be more absurd than the supposition that the great body of them can now participate in Governmental affairs with any discretion. A very few of them are discreet and virtuous, and have considerable intelligence; and when the State shall be left free to manage her internal affairs, without extraneous interference, I do not doubt that the question as to what share ought to be granted them, in the elective franchise, will be candidly considered. To grant universal suffrage to them now is manifestly absurd.

What ought to be done in reference to this race, if its consideration could be approached apart from passion and party politics, would embarrass the wisest statesman and philanthropist. Unhappily, our present condition does not allow such calm consideration. At present it blends itself with our national affairs. From the earliest period of our history under the National Union, it has been the cause or the pretext, for sectional strife! Disunionists, North and South, have constantly used it to alienate one section of our country from the other. When these strifes at last culminated in war, and slavery was suddenly abolished, and the South thereby grievously impoverished and constrained to accommodate itself to a violent change, more suddenly introduced than the teachings of experience would seem to warrant, all patriotic men looked for national repose, as a set off. The one great theory of our government, which was supposed to be settled, was that each State should manage its own internal affairs; but so far from the abolition of slavery having composed our sectional differences, it has only intensified them,—the negro being still the subject of strife. The North claimed that humanity required its interposition to protect the recently emancipated slaves from aggression on the part of the white people of the South, and new and strange tribunals were instituted among us to manage this race, claiming and exercising long after hostilities had ceased, exclusive jurisdiction, civil and criminal, over whites and blacks, as to all matters to which a freedman was a party, and resting their decisions and modes of proceeding on no known rules. It behooves every patriotic mind to solve the problem, what is best to be done to avoid this sectional strife in relation to the negro. Is it possible, in entire consistency with the well being of the African race, to avoid this enduring source of animosity between the sections? It seems to me that the course to be pursued is obvious, if the parties to the controversy sincerely desire reconciliation. The cause of the trouble is the unequal distribution of the race between the sections. The plain and practical remedy is their more equal diffusion. Existing circumstances invite such diffusion. The people of the South (whether from prejudice or not is immaterial, to the view I take) do not regard the negro as their equal. He is not allowed the right of suffrage. The North insists that this prejudice of the South does cruel wrong to the African. Among us they are very poor, and few of them have acquired local attachments by ownership of land. The results of emancipation and war have made the whites poor also; and the uncertain condition of our federal relations prevents the influx of capital or population. Enterprise is paralysed. Few are able to employ laborers and pay them liberally. On the other hand the dominant States are rich. In all of them the wages of labor is much greater than we can pay. In many of them are public lands of great fertility which the laws give to the actual settler at a nominal price. In one of these States a portion of the people has given a substantial earnest of their principles by electing two Africans as members of their State Legislature. Everything seems to invite their emigration to the dominant States;—but most of them are too poor to pay the expenses of moving. This difficulty may be overcome by diverting the appropriation made to sustain the Freedmen's Bureau, to defraying the travelling expenses of those who may choose to move, allowing each one to choose the State or territory to which he would go. When thus left free and aided to go where they may think their condition will be bettered, no grounds will be left for further sectional strife as to their government. Who that would avoid the rock on which our ship of State is threatened with wreck, will object to this scheme of reconciliation? It is clear that the Northern States will not object to it. It will place the negroes, voluntarily emigrating to them, where they can look after their personal protection and mental and moral culture, much more discreetly than they can by a Freedman's Bureau, or any other machinery while they remain here.

I am sure North Carolina will not object to this scheme. If it be objected that the emigration would be so universal as to leave us for a time, without a sufficiency of laborers, and it be conceded that this would be the result, who would not prefer to perform servile labor until other labor could be procured, to the inquietude and humiliation to which we are now subjected? But, such would not be the result. North Carolina means to treat her freedmen with justice and humanity. Very many of them retain the fellings of kindness and confidence which they formerly felt towards their late masters, and these reciprocate the feeling and pay them fair wages, and give them every reasonable aid to better their condition. Although we may be unable to perceive anything to encourage our efforts in the past history of the race, I respectfully recommend that you propose this plan of national reconciliation to the Congress of the United States. Whether the suggestion be carried out or not, it behooves us to consider what the welfare of the State requires us to do in special reference to the African race among us. The task which the sudden emancipation of so many slaves imposed, if we were allowed to undertake it without interference, would be a most difficult one. We must face it as it is, and do the best we can for the common weal of the white and the black.

The most prominent subjects demanding new legislation are crime and pauperism. Our Courts have been so occupied with the criminal side of the dockets that little attention could be given to civil suits, and our jails are still crowded. Stealing, formerly regarded as the meanest of crimes, and of unfrequent occurrence in this State, from the manner in which the late war was conducted and other causes, has come to be regarded as a rather veniable offence. The action of our Courts has done much to check it. It is still frightfully common. Negroes compose much the larger class of these offenders. Much the larger number of convicts, of all colors, are insolvents, and the expenses of their prosecution and imprisonment swell largely the frightful burthen of taxation under which our impoverished people are laboring. This evil must be remedied, if possible.

Under our existing laws recently enacted, power is conferred on the Justices of the Peace to erect work houses for their respective Counties, in which insolvent convicts should work out the fines imposed and the costs of prosecution. The erection of proper buildings will cost much. Counties cannot bear the expense of erecting around them sufficient walls to prevent the escape of prisoners. The salary of the Superintendent and other employees must be considerable. How can the convict be compelled to labor? What is he to work at? If a machinist, is it contemplated to supply each County workshop with necessary tools and materials? Is leather to be provided for the shoemaker and saddler; coal, anvil, hammer and bellows for the blacksmith; plank and planes for the carpenter, &c.? If not, what is he to work at? Certainly not at farming. This would require the keeping of mules or horses, with uncertainty whether any, or how many convicts would be sent to the workhouse. The Superintendent could not pitch his crop in uncertainty whether he would have any hands, or how many he would have, and almost a certainty that when he put his convict in the field to work, he would run away. I submit whether it would not be better to keep up our highways by taxation, and to compel insolvent vagrants and others, convicted of misdemeanors, to work with ball and chain on the highways or other public works of the Counties, allowing them, as provided in our County work-house act, to raise the fine and costs by apprenticing themselves.

PENITENTIARY.

As to convicts for the higher grades of crime I think a Penitentiary should be erected. This mode of punishment has been in long use in most of the States. It has never been discontinued, so far as I am informed, in any State which has adopted it, and I regard this experience as decisive in favor of the plan. If this recommendation be approved, I further recommend that provision be made for employing convict labor, as far as practicable, in the construction of the necessary buildings, and that a proper commisson be constituted to carry out the design in the best manner.

PAUPERISM.

The number dependent for subsistence on public charity is vastly greater than it ever was in any past period of our history. A benevolent feature of the Freedmen's Bureau was the issuing of rations to indigent blacks. This, I understand, will be, or has been, discontinued. Large numbers of them, too old or infirm to labor, and a still larger number of children, too young to labor, and without parents, or with parents not providing for them, must be cared for. In addition to these is the large number made dependent by the loss or the maiming of their parents in the late war. As to the number of these last I cannot furnish the statistics, contemplated by the resolution of the General Assembly of the tenth of March last, the chairmen of the County Courts of some three or four counties only, having sent me any returns, and these do not profess to be full and accur-

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