

cur in a mode of settlement consistent at once with our true interests and with our sworn duties to the Constitution, is too natural and too just to be easily relinquished. It is clear to my apprehension that the States lately in rebellion are still members of the national Union. When did they cease to be so? The ordinances of secession adopted by a portion—in most of them a very small portion of their citizens—were mere nullities. If we admit now that they were valid and effectual for the purpose intended by their authors, we sweep from under our feet the whole grounds upon which we justified the war. Were these States afterwards expelled from the Union by the war? The direct contrary was averred by this Government to be its purpose, and was so understood by all those who gave their blood and treasure to aid in its prosecution. It cannot be that a successful war waged for the preservation of the Union had the legal effect of dissolving it. The victory of the Nation's arms was not the disgrace of her policy; the defeat of secession on the battle-field was not the triumph of its lawless principle. Nor could Congress, with or without the consent of the Executive, do anything which would have the effect, directly or indirectly, of separating the States from each other. To dissolve the Union is to repeal the Constitution which holds it together, and that is a power which does not belong to any department of this Government, nor to all of them united. This is so plain that it has been acknowledged by all branches of the Federal Government. The Executive, my predecessor, as well as myself and all the heads of all the Departments have uniformly acted upon the principle that the Union is not only undissolved, but indissoluble. Congress submitted an amendment of the Constitution to be ratified by the Southern States and accepted their acts of ratification as a necessary and lawful exercise of their highest function. If they were not States, or were States out of the Union, their consent to a change in the fundamental law of the Union would have been nugatory, and Congress in asking committed a political absurdity.

The Judiciary has also given the solemn sanction of its authority to the same view of the case. The Judges of the Supreme Court have included the Southern States in their Circuits; and they are constantly in *Banco* and elsewhere, exercising jurisdiction which does not belong to them, unless those States are States of the Union. If the Southern States are component parts of the Union, the Constitution is the supreme law for them as it is for the other States. They are bound to obey it, and so are we. The right of the Federal Government, which is clear and unquestionable, to enforce the Constitution upon them, implies the correlative obligation on our part to observe its limitations and execute its guarantees.

Without the Constitution we are nothing. By, through and under the Constitution, we are what it makes us. We may doubt the wisdom of the law, we may not approve of its provisions, but we cannot violate it merely because it seems to confine our powers within limits narrower than we would wish. It is not a question of individual or class or sectional interest, much less of party predominance; but of duty—high and sacred duty—which we are all sworn to perform. If we cannot support the Constitution with the cheerful alacrity of those who love and believe in it, we must give to it at least the fidelity of public servants, who act under solemn obligations and commands which they dare not disregard.

The Constitutional duty is not the only one which requires the State to be restored. There is another consideration; which, though of minor importance, is yet of great weight. On the 22nd day of July, 1861, Congress declared by an almost unanimous vote of both Houses, that the war should be conducted solely for the purpose of preserving the Union and maintaining the supremacy of the Federal Constitution and laws, without impairing the dignity, equality and rights of the States or of individuals; and that when this was done, the war should cease. I do not say that this declaration is personally binding on those who joined in making it, any more than individual members of Congress are personally bound to pay a public debt created under a law for which they vote. But it was a solemn public official pledge of the national honor and I cannot imagine upon what grounds the repudiation of it is to be justified. If it be said that we are not bound to keep faith with the rebels, let it be remembered that this promise was not made to rebels only. Thousands of

true men in the South were drawn to our standard by it, and hundreds of thousands in the North gave their lives in the belief that it would be carried out. It was made on the day after the first great battle of the war had been fought and lost. All patriotic and intelligent men then saw the necessity of giving such an assurance, and believed that without it the war would end in disaster to our cause.

Having given that assurance in the extremity of our peril, the violation of it now in the day of our power would be a rude rending of that good faith which holds the moral world together. Our country would cease to have any claim upon the confidence of men. It would make the war not only a failure but a fraud. Being sincerely convinced that these views are correct, I would be unfaithful to my duty if I did not recommend the repeal of the acts of Congress which place ten of the Southern States under the domination of military masters. If calm reflection shall satisfy a majority of your honorable bodies that the acts referred to are not only a violation of the National faith but in direct conflict with the Constitution I dare not permit myself to doubt that you will immediately strike them from the statute book. To demonstrate the unconstitutional character of those acts, I need do no more than refer to their general provisions. It must be seen at once that they are not authorized to dictate what alterations shall be made in the Constitutions of the several States, to control the elections of State legislators and State officers, members of Congress, and elections of President and Vice President, by arbitrarily declaring who shall vote and who shall be excluded from that privilege; to dissolve State Legislatures or prevent them from assembling, to dismiss Judges and other Civil functionaries of the State, and appoint others without regard to State law; to organize and operate all the political machinery of the States; to regulate the whole administration of their domestic and local affairs, according to the mere will of strange and irresponsible agents sent among them for that purpose. These are powers not granted to the Federal Government or to any one of its branches. Not being granted, we violate our trust by assuming them, as palpably as we would by acting in the face of a positive interdiction, for the Constitution forbids us to do whatever it does not affirmatively authorize either by express words or by clear implication.

If the authority we desire to use does not come to us through the Constitution we can exercise it only by usurpation, and usurpation is the most dangerous of political crimes. By that crime the enemies of a free Government in all ages have worked out their designs against public liberty and private rights. It leads directly and immediately to the establishment of absolute rule, for undelimited power is always unlimited and unrestrained. The acts of Congress in question are not only objectionable for their assumption of ungranted power, but many of their provisions are in conflict with the direct prohibitions of the Constitution. The Constitution commands that a republican form of Government shall be guaranteed to all the States; that no person shall be deprived of life, liberty or property without due process of law, arrested without a judicial warrant, or punished without a fair trial before an impartial jury; that the privilege of *habeas corpus* shall not be denied in time of peace, and that no bill of attainder shall be passed even against a single individual. Yet the system of measures established by these Acts of Congress does totally subvert and destroy the form as well as the substance of republican government in the ten States to which they apply; it binds them hand and foot in absolute slavery, and subjects them to a strange and hostile power, more unlimited and more likely to be abused than any other now known among civilized men. It tramples down all these rights in which the essence of liberty consists, and which a free government is always most careful to protect. It denies the *habeas corpus* and the trial by jury; personal freedom, property and life, if assailed by the passion, the prejudice, or the rapacity of the ruler, have no security whatever. It has the effect of a bill of attainder, or bill of pains and penalties not upon a few individuals, but upon whole masses, including the millions who inhabit the subject State, and even their unborn children.

These wrongs being expressly forbidden cannot be constitutionally inflicted upon any portion of our people, no matter how they may have come within our jurisdiction, and no matter

whether they live in States, or Territories, or districts. I have no desire to save from the proper and just consequences of their great crime, those who engaged in rebellion against the Government, but as a mode of punishment the measures under consideration are the most unreasonable that could be invented. Many of those people are perfectly innocent; many kept their fidelity to the Union untainted to the last; many were incapable of any legal offense; a large proportion even of the persons able to bear arms were forced into rebellion against their will; and of those who are guilty with their own consent the degrees of guilt are as various as the shades of their character and temper. But these acts of Congress confound them all together in one common doom.

Indiscriminate vengeance upon classes, sects and parties, or upon whole communities, for offences committed by a portion of them, against the Government to which they owed obedience, was common in the barbarous ages of the world. But Christianity and civilization have made such progress that recourse to a punishment so cruel and unjust would meet with the condemnation of all unprejudiced and right-minded men. The punitive justice of this age, especially of this country, does not consist in stripping whole States of their liberties and reducing all their people, without distinction, to the condition of slavery. It deals separately with each individual, confines itself to the forms of law, and vindicates its own purity by an impartial examination of every case before a competent judicial tribunal. If this does not satisfy all our desires, with regard to Southern rebels, let us console ourselves by reflecting that a free Constitution, triumphant in war and unbroken in peace, is worth far more to us and our children than the gratification of any present feeling.

I am aware it is assumed that this system of government for the Southern States is not to be perpetual. It is true this military government is to be only provisional; but it is through this temporary evil that a greater evil is to be made perpetual. If the guarantees of the Constitution can be broken provisionally, to serve a temporary purpose and in a part only of the country, we can destroy them everywhere and for all time. Arbitrary measures often change, but they generally change for the worse. It is the curse of despotism that it has no halting place, the intermitted exercise of its power brings no sense of security to its subjects, for they can never know what more they will be called to endure when its Red Right Hand is armed to plague them again. Nor is it possible to conjecture how or where power unrestrained by law may seek its next victims. The States that are still free may be enslaved at any moment, for if the Constitution does not protect all it protects none.

LOCAL ITEMS.

MR. HENRY C. FOWLER is authorized by us to act as our Agent in canvassing for and receiving Subscriptions and Advertisements for the DESERET EVENING NEWS.

DIED, this morning, in the 17th Ward, Zillah wife of W. W. Player, aged 79 years. Deceased was born in London; was baptized in 1839; emigrated to Nauvoo in 1841; and came to this valley in 1862, with her husband and family. The funeral will take place to-morrow morning at 10 o'clock.

THEATRICAL.—To-night the "Stranger," with Mr. and Miss Coudock in the leading roles; followed by the "Lost Child," Miss Nunn appearing in a song between.

BOLTING.—Yesterday afternoon a horse with harness on, but unattached to a wagon, manifested an inclination to move in an independent course on Main St., and having bolted made directly for an auction stand as if about to offer a bid. The intruding animal being turned, it reared and plunged across the street and brought up with its fore legs over the pole of a wagon to which a span of horses were hitched, and there remained until caught. Fortunately nobody was injured, though there were a great many people on the street at the time.

IRON COUNTY.—Elder Silas S. Smith, from Paragonah, Iron County, who arrived in the city on Saturday evening, informs us that the advanced guard of the grasshoppers reached that settlement this fall in time. It is supposed, to deposit their eggs. They manifested the same voracious disposition there which they did here, patches of lucerne being completely devoured by them in a very short time. The people of Parowan had a pretty good yield of wheat at harvest; the wheat of Paragonah suffered to some extent from rust.

An Englishman, who is fond of hunting up legal statistics, says that England contains one lawyer to every 1,240 inhabitants. France one to every 1970, and Prussia one to every 12,000. This regards as one of the secrets of Prussia's prosperity.

New Advertisements.

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Prepare for the Holidays!

WE have just opened a Choice Selection of FRESH GROCERIES. Just the thing for the Holidays! They consist in part of

White and Brown Sugars, FRESH MALAGA RAISINS, ZANTE CURRANTS, CANDIED LEMONS, CITRON, PIE FRUITS, in Cans and Boxes, FIELD'S COVE OYSTERS, SARDINES, GROUND AND UNGROUND SPICES, CHOCOLATE, COCOA, FLAVORING EXTRACTS, PLAIN AND FANCY CANDIES, All of which will be sold at VERY LOW RATES. GODDE & MITCHELL, EXCHANGE BUILDINGS.

all-2w

REMOVED.

THE "City Liquor Store" is removed to the west side of East Temple Street, one door below the "OCCIDENTAL", where PURE Valley Whiskey and Choice Imported Liquors and Wines can be obtained, Wholesale and Retail, on the most reasonable terms. ISAAC GREGG, City Agent. G. S. L. City, Dec. 2, 1867. d10-1m

EDWARD MARTIN.

Sign of the "BEE HIVE," PHOTOGRAPH GALLERY AND VARIETY STORE. Every one knows the place. d2-1f

PARLOR ORGANS TO RENT! PRICES, per QUARTER, IN ADVANCE. \$15 00, \$18 00, \$25 00. D. O. CALDER.

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