

THE PRESIDENT'S VETO MESSAGE.

To the Senate of the United States:

I have examined with care the bill which originated in the Senate, and has been passed by the two Houses of Congress, to amend an act entitled "An Act to establish a Bureau for the Relief of Freedmen and Refugees, and for other purposes." Having with much regret come to the conclusion that it would not be consistent with the public welfare to give my approval to the measure, I return the bill to the Senate, with my objections to its becoming a law.

I might call to mind, in advance of these objections, the fact that there is no immediate necessity for the proposed measure. The act to establish a Bureau for the Relief of Freedmen and Refugees, which was approved in the month of March last, has not yet expired. It was thought stringent and extensive enough for the purpose in view. Before it ceases to have effect, farther experience may assist to guide us to a wise conclusion as to the policy to be adopted in time of peace.

I have, with Congress, the strongest desire to secure to the freedmen, the full enjoyment of their freedom, their property, and their entire independence and equality in making contracts for their labor; but the bill before me contains provisions which, in my opinion, are not warranted to accomplish the end in view.

The bill promises to establish, by the authority of Congress, a military jurisdiction over all parts of the United States containing refugees and freedmen. It would, by its very nature, apply with most force to those parts of the United States, in which the freedmen most abound, and it expressly extends to the existing temporary jurisdiction of the Freedmen's Bureau, with greatly enlarged powers, over those States in which the ordinary course of judicial proceedings has been interrupted by the rebellion.

The source from which this military jurisdiction is to emanate is none other than the President of the United States, acting through the War Department and the Commissioner of the Freedmen's Bureau. The agents to carry out this military jurisdiction are to be selected either from the army or from civil life. The country is to be divided into districts and sub-districts and the number of salaried agents to be employed may be equal to the number of counties or parishes in all the United States, where freedmen and refugees are to be found.

The subjects over which this military jurisdiction is to extend in every part of the United States, include protection to all employes, agents and officers of this Bureau in the exercise of the duties imposed upon them by the bill. In eleven States it is further to extend in all cases affecting freedmen and refugees discriminated against by local law, custom or prejudice. In these eleven States the bill subjects any white person who may be charged with depriving a freedman of any civil rights or immunities belonging to white persons to imprisonment and fine, or both, without however, defining the civil rights and immunities which are thus to be secured to the freedmen by military law. This military jurisdiction also extends to all questions that may arise respecting contracts. The agent who is thus to exercise the office of a military judge may be a stranger, entirely ignorant of the laws of the place, and exposed to the errors of judgment to which all men are liable. The exercise of power, over which there is no legal supervision, by so vast a number of agents, must, by the very nature of man, be attended by acts of caprice injustice and power.

The trials which have their origin under this bill are to take place without the intervention of a jury, and without any fixed rules of law or evidence. The rules on which offences are to be heard and determined by the numerous agents are such rules and regulations as the President, through the War Department, shall prescribe. No previous presentment is required, nor any indictment charging the commission of a crime against the laws; but the trial must proceed on charges and specifications. The punishment will be not what the law requires, but such as a court martial may think proper; and from these arbitrary tribunals there lies no appeal, no writ of error to any of the courts in which the Constitution of the U. States vests exclusively the judicial power of the country, while the territory and the class of actions and offenses that are made subject to this measure are so extensive.

The bill itself, should it become a law, will have no limitation in point of time, but will form a part of the permanent legislation of the country.

I cannot reconcile a system of military jurisdiction of this kind with the words of the Constitution, which declare that "no person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger;" and that "in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State or district, wherein the crime shall have been committed." These safeguards which the wisdom and experience of ages taught our fathers to establish as securities for the protection of the innocent, the punishment of the guilty, and the equal administration of justice are to be set aside; and for the sake of a more vigorous interposition in behalf of justice, we are to take the risk of many acts of injustice that would of necessity follow from an almost countless number of agents established in every parish or county, in nearly a third of the States of the Union, over whose decision there is to be no supervision or control by the Federal courts.

The power that would be thus placed in the hands of the President is such as, in time of peace, certainly ought never to be intrusted to any one man.

If it be asked whether the erection of such a tribunal within a State is warranted as a measure of war, the question immediately presents itself whether we are engaged in war. Let us not unnecessarily disturb the commerce, credit and industry of the country by declaring to the American people and the world that the United States are still in a condition of civil war. At present there is no part of our country in which the authority of the United States is disputed. Offenses that may be committed by individuals should not work a forfeiture of the rights of entire communities. The country has entered upon, or is returning to a state of peace and industry, and the rebellion is, in fact, at an end. The measure, therefore, seems to be as inconsistent with the actual condition of the country as it is at variance with the Constitution of the United States.

If, passing from general considerations, we examine the bill in detail, it is open to weighty objections. In time of war, it was eminently proper that we should provide for those who were passing suddenly from a condition of bondage to a state of freedom. This bill proposes to make the Freedmen's Bureau, established by the act of 1865, as one of many great and extraordinary military measures to suppress a formidable rebellion—a permanent branch of the public administration, with its powers greatly enlarged. I have no reason to suppose, and I do not understand it to be alleged, that the act of March, 1865, has proved deficient for the purpose for which it was passed, although at that time, and for a considerable period thereafter, the Government of the United States remained unacknowledged in most of the States whose inhabitants had been involved in the rebellion. The institution of slavery, for the military destruction of which the Freedmen's Bureau was called into existence as an auxiliary force, has been already effectually and finally abrogated, throughout the whole country, by an amendment of the Constitution of the United States, and practically its eradication has received the assent and concurrence of most of those States in which it at any time had existed. I am not, therefore, able to discern in the country anything to justify an apprehension that the powers and agencies of the Freedmen's Bureau, which were effective for the protection of the freedmen and refugees during the actual continuation of hostilities and of African servitude, will now, in a time of peace, and after the abolition of slavery, prove inadequate to the same ends. If I am correct in these views, there can be no necessity for the enlargement of the powers of the Bureau, for which provision is made in the bill.

The third section of the bill authorizes a general unlimited amount of support to the destitute and suffering refugees and freedmen, and their wives and children. Succeeding sections make provisions for the rent or purchase of landed estates for freedmen, and for the erection, for their benefit, of suitable buildings for asylums and schools, the expenses to be defrayed from the treasury of the whole people. The Congress of the United States has never heretofore thought itself competent to establish any laws beyond the limits of the District of Columbia, except for the benefit of our disabled soldiers and sailors. It has never founded schools for any class of our own people, not even for the orphans of those who have fallen in

defence of the Union; but has left the care of their education to the much more competent and efficient control of the States, of communities, of private associations and of individuals. It has never deemed itself authorized to expend the public money for the rent or purchase of homes for the thousands, not to say millions, of the white race, who are honestly toiling from day to day for their subsistence. A system for the support of indigent persons in the United States, was never contemplated by the authors of the Constitution, nor can any reason be advanced why, as a permanent establishment, it should be founded for one class or color of our people more than for another. Pending the war, many refugees and freedmen received support from the Government, but it was never intended that they should henceforth be fed, clothed, educated and sheltered by the United States. The idea on which the slaves were assisted to freedom was that, on becoming free, they would be a self-sustaining population. Any legislation that shall imply that they are not expected to attain a self-sustaining condition must have a tendency injurious alike to their character and their prosperity.

The appointment of an agent for every county and parish will create an immense patronage, and the expense of the numerous officers and their clerks, to be appointed by the President, will be great in the beginning, with a tendency steadily to increase. The appropriations asked by the Freedmen's Bureau, as now established, for the year 1866, amount to \$11,745,000. It may be safely estimated that the cost to be incurred under the pending bill will require double that amount—more than the entire sum expended in any one year under the administration of the second Adams.

If the presence of agents in every parish and county is to be considered as a war measure, opposition or even resistance might be provoked, so that to give effect to their jurisdiction troops would have to be stationed within reach of every one of them, and thus a large standing force be rendered necessary. Large appropriations would therefore be required to sustain and enforce military jurisdiction in every county or parish from the Potomac to the Rio Grande. The condition of our fiscal affairs is encouraging, but, in order to sustain the present measure of public confidence, it is necessary that we practice not merely the customary economy, but, as far as possible, severe retrenchment.

In addition to the objections already stated, the 5th section of the bill proposes to take away land from its former owners without legal proceedings being first had, contrary to that provision of the Constitution which declares that no person shall be deprived of life, liberty or property, without due process of law. It does not appear that the lands to which this section refers may not be owned by minors or persons of unsound mind, or by those who have been faithful to all their obligations as citizens of the United States. If any portion of the land is held by such persons, it is not competent for any authority to deprive them of it. If, on the other hand, it be found that the property be liable to confiscation, even then it cannot be appropriated to public purposes, until, by due process of law, it shall have been declared forfeited to the Government.

There are still further objections to the bill, on grounds seriously affecting the class of persons to whom it is designed to bring relief. It will tend to keep the mind of the freedmen in a state of uncertain expectation and restlessness, while to those among whom he lives it will be a source of constant and vague apprehension. Undoubtedly, the freedmen should be protected, but they should be protected by the civil authorities, especially by the exercise of all the constitutional powers of the courts of the United States. His condition is no so exposed as may at first be imagined. He is in a portion of the country where his labor cannot be well spared. Competition for his services from planters, from those who are constructing or repairing railroads, or from capitalists in his vicinity, or from other States, will enable him to command almost his own terms. He also possesses a perfect right to change his place of abode; and if, therefore, he does not find in one community or State a mode of life suited to his desires, or proper remuneration for his labor, he can move to another, where labor is more esteemed and better rewarded. In truth, however, each State, induced by its own wants and interests, will do what is necessary and proper to retain within its borders all the labor that is needed for the development of its resources. The laws that regulate, supply and demand will maintain their force, and the wages of the

laborer will be regulated thereby. There is no danger that the great demand for labor will not operate in favor of the laborer. Neither is sufficient consideration given to the ability of the freedmen to protect and take care of themselves. It is no more than justice to them to believe that, as they have received their freedom with moderation and forbearance, so they will distinguish themselves by their industry, and will soon show the world that in a condition of freedom they are self-sustaining and capable of selecting their own employment and their own places of abode; of insisting for themselves on a proper remuneration, and of establishing and maintaining their own asylums and schools. It is earnestly hoped that instead of wasting away, they will, by their efforts, establish for themselves a condition of respectability and property. It is certain that they can attain to that condition only through their own merits and exertions.

In this connection, the query presents itself: Whether the system proposed by the bill will not, when put into complete operation, practically transfer the entire care, support and control of 4,000,000 of emancipated slaves to agents, overseers or task-masters who, appointed at Washington, are to be located in every county and parish throughout the United States containing freedmen and refugees. Such a system would inevitably tend to such a concentration of power in the Executive as would enable him, if so disposed, to control the action of a numerous class and use them for the attainment of his own ends.

I cannot add but another very grave objection to this bill: The Constitution imperatively declares, in connection with taxation, that each State shall have at least one Representative, and fixes the rules for the number to which in future times each State shall be entitled. It also provides that the Senate of the United States shall be composed of two Senators from each State, and adds, with peculiar force, that "no State, without its consent, shall be deprived of its equal suffrage in the Senate." The original act was necessarily passed in the absence of the States chiefly to be affected, because their people were then contumaciously engaged in the rebellion. Now the case is changed, and some, at least, of the States are sending to Congress loyal representatives soliciting the allowance of the constitutional right of representation. At the time, however, of the consideration and passage of the bill, there was no Senator or Representative in Congress from the eleven States which are to be mainly affected by its provisions. The very fact that reports were, and are, made against the good disposition of the country, is an additional reason why they need and should have representatives of their own in Congress, to explain their condition, reply to accusations, and assist, by their local knowledge, in the perfecting of measures immediately affecting themselves.

While the liberty of deliberation would be free, and Congress would have full power, according to its judgment, there could be no objection urged that the States most interested had not been permitted to be heard. The principle is firmly fixed in the minds of the American people that there should be no taxation without representation. Great burdens are now to be borne by all the country, and we may best demand that they shall be borne without murmur when they are borne by a majority of the representatives of the people.

I would not interfere with the unquestionable right of Congress to judge, each House for itself, of the elections, returns and qualifications of its own members; but that authority cannot be construed as including the right to shut out, in time of peace, any State from representation to which it is entitled by the Constitution. At present all the people of eleven States are excluded—those who were most faithful during the war not less than others. The State of Tennessee, for instance, whose authorities engaged in rebellion, was restored to all her constitutional relations to the Union by the patriotism and energy of her betrayed and injured people. Before the war was brought to a termination, they had placed themselves in relations with the General Government, had established a State Government of their own, and, as they were not included in the emancipation proclamation, they by their own act, have amended their Constitution so as to abolish slavery within the limits of their State. I know no reason why the State of Tennessee, for example, should not fully enjoy all her constitutional relations to the United States.

The President of the United States stands towards the country in a somewhat different attitude from that of any