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BY S. J. ROW.

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Annual Message of
ANDREW JOHNSON;
Delivered December 3d, 1867.

Fellow-Citizens of the Senate and House of Representatives:

The continued disorganization of the Union, to which the President has so often called the attention of Congress, is yet a subject of profound and patriotic concern. We may, however, find some relief from that anxiety in the reflection that the painful political situation, although before us, is not new in the experience of nations. Political science, perhaps as highly perfected in our own time and country as in any other, has not yet disclosed any means by which civil wars can be absolutely prevented. An enlightened nation, however, with a wise and beneficent Constitution of free government, may diminish their frequency and mitigate their severity by directing all its proceedings in accordance with its fundamental law.

When a civil war has been brought to a close, it is manifestly the first interest, and duty of the State to repair the injuries which the war has inflicted, and to secure the benefit of the lessons it teaches as fully and as speedily as possible. This duty was, upon the termination of the rebellion, promptly accepted, not only by the Executive Department, but by the insurrectionary States themselves, and restoration, in the first moment of peace, was believed to be as easy and certain as it was indispensable. The expectations, however, then so reasonably and confidently entertained, were disappointed by legislation from which I felt constrained, by my obligations to the Constitution, to withhold my assent.

It is therefore a source of profound regret that, in complying with the obligation imposed upon the President by the Constitution, to give to Congress from time to time information of the state of the Union, I am unable to communicate any definitive adjustment, satisfactory to the American people, of the questions which, since the close of the rebellion, have agitated the public mind. On the contrary, candor compels me to declare that at this time there is no Union as our Fathers understood the term, and as they meant it to be understood by us. The Union which they established can exist only where all the States are represented in both Houses of Congress; where one State is as free as another to regulate its internal concerns according to its own will; and where the laws of the central Government, strictly confine to matters of national jurisdiction, apply with equal force to all the people of every section. That such is not the present "state of the Union" is a melancholy fact; and we all must acknowledge that the restoration of the States to their proper legal relations with the Federal Government and with one another, according to the terms of the original compact, would be the greatest temporal blessing which God, in his kindest providence, would bestow upon this nation. It becomes our imperative duty to consider whether or not it is impossible to effect this most desirable consummation.

The Union and the Constitution are inseparable. As long as one is obeyed by all parties, the other will be preserved, and if one is destroyed both must perish together. The destruction of the Constitution will be followed by other and still greater calamities. It was ordained not only to form a more perfect union between the States, but to establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity. Nothing but implicit obedience to its requirements in all parts of the country will accomplish these great ends. Without that obedience, we can look forward only to continual outrages upon individual rights, incessant breaches of the public peace, national weakness, financial dishonor, the total loss of our prosperity, the general corruption of morals, and the final extinction of popular freedom. To save our country from evils so appalling as these, we should renew our efforts again and again.

To me the process of restoration seems perfectly plain and simple. It consists merely in a faithful application of the Constitution and laws. The execution of the laws is now obstructed or opposed by physical force. There is no military or other necessity, real or pretended, which can prevent obedience to the Constitution, either North or South. All the rights and all the obligations of States and individuals can be protected and enforced by means perfectly consistent with the fundamental law. The courts may be everywhere open, their process would be unimpeded. Crimes against the United States can be prevented or punished by the proper judicial authority, in a manner entirely practicable and legal. There is, therefore, no reason why the Constitution should not be obeyed, unless those who exercise its powers have determined that it shall be disregarded and violated. The mere naked will of this Government, or of some one or more of its branches, is the only obstacle that can exist to a perfect union of all the States.

On this momentous question, and some of the measures growing out of it, I have had the misfortune to differ from Congress, and have expressed my convictions without reserve, though with becoming deference to the opinion of the Legislative Department. Those convictions are not only unchanged, but strengthened by subsequent events and further reflection. The transcendent importance of the subject will be a sufficient reason for calling your attention to some of the reasons which have so strongly influenced my own judgment. The hope that we may all finally concur 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 ground upon which we justified the war. Were those 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 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 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, or 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 the heads of all the Departments have uniformly acted upon the principle that the Union is not only not dissolved, 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 it, 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 banc* 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 all other States. They are bound to obey it, and so are we. The right of the Federal Government, which is so 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 could wish. It is not a question of individual, or class, or sectional interest, much less of party predominance, but of duty—of high and sacred duty—which we are all sworn to perform. If we cannot support the Constitution with the cheerful acquiescence of those who have believed 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 States to be restored. There is another consideration which, though of minor importance, is yet of great weight. On the 22d day of July, 1861, Congress declared, by 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 voted. But it was a solemn, public, official pledge of the national honor, and I cannot impute upon what grounds the repudiation of it is to be justified. If it be said that we are not bound to keep faith with 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 the 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 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 repudiation 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 not recommend the repeal of the acts of Congress which place ten of the Southern States under the domination of military masters. It can 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 these 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 elec-

tors 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 not powers 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 free government in all ages have worked out their designs against public liberty and private right. 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 them are in conflict with the direct prohibitions of the Constitution. The Constitution commands that a republic form of government shall be guaranteed to the States; that no State 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 war or rebellion, but that no writ shall be passed even against a single individual. Yet the system of measures established by these acts of Congress does totally suppress and destroy the form as well as the substance of republican government in the 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 transfers to the hands of the unprincipled and unscrupulous, 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, are assailed by the passion, or the caprice, 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 the whole population of the States to which they are applied, 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 conspired with our passions, and no matter whether they live in States, Territories or districts.

I have no desire to save from the proper and just consequences of their great crimes the few who are engaged in the 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 actually engaged in the 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 actually engaged in the 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 actually engaged in the rebellion against the Government; but as a mode of punishment the measures under consideration are the most unreasonable that could be invented.

I am aware it is assumed that this system of government is necessary to the South. This 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 by the will of Congress, the 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 is not content with the present, but it is constantly devising new means of oppression. The subjugation of the States to negro domination would be worse than the military despotism under which they are now suffering. If charge was established by act of Congress, and the military officers were commanded to superintend the process of clothing the negro race with the political privileges torn from white men.

The blacks in the South are entitled to be well and humanely governed, and to have the protection of just laws for all their rights of person and property. If it were practicable at this time to give them a government exclusively their own, under which they might manage their own affairs in their own way, it would be a great benefit to them. But, under the circumstances, this is only a speculative point.

It is merely that they shall govern themselves, but that they shall rule the white race, make and administer State laws, elect Presidents and members of Congress, and shape to a greater or less

extent the future destiny of the whole country. Would such a trust and power be safe in such hands?

The peculiar qualities which should characterize any people who are fit to decide upon the management of public affairs for a great State have seldom been combined in the history of the world. It is the glory of the white men to know that they have had these qualities in sufficient measure to build upon this continent a great political fabric, and to preserve its stability for more than ninety years, while in every other part of the world all similar experiments have failed. But if anything can be proved by known facts, if all reasoning upon evidence is not abandoned, it must be acknowledged that the progress of nations negroes have shown less capacity for government than any other race of people. No independent government of any form has ever been successful in their hands. On the contrary, wherever they have been left to their own devices, they have shown a constant tendency to relapse into barbarism. In the Southern States, however, Congress has undertaken to confer upon them the privilege of the ballot. Just released from slavery, it may be doubted whether they are capable of exercising that privilege. In the hands of the unprincipled and unscrupulous, 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, are assailed by the passion, or the caprice, 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 the whole population of the States to which they are applied, 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 conspired with our passions, and no matter whether they live in States, Territories or districts.

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negroes will maintain their ascendancy themselves. Without military power they are wholly incapable of holding in subjection the white people of the South.

I submit to the judgment of Congress whether the public credit may not be injuriously affected by a system of measures like this. With our debt, and the vast private interests which are complicated with it, we cannot be too cautious of a policy which might, by possibility, impair the confidence of the world in our government. That confidence can only be retained by carefully insulating the principle of justice and honor on the popular mind, and by the most unscrupulous fidelity to all our engagements of every sort. Any serious breach of the organic law, persisted in for a considerable time, cannot but create fears for the stability of our institutions. Habitual violation of prescribed rules, which we bind ourselves to observe, must demoralize the people. Our only standard of civil duty being set at naught, the sheet-anchor of our political morality is lost, the public conscience swings from its moorings, and yields to every impulse of passion and interest. If we repudiate the Constitution, we will not be expected to stand with a republican form of government. The violation of such a pledge as we made on the 22d day of July, 1861, will assuredly diminish the market value of our other promises. Besides, if we now acknowledge that the national debt was created, not to pay for the rebellion, but to pay for the maintenance of our institutions, as the tax payers were led to suppose, but to expel them from it and hand them over to be governed by negroes, the moral duty to pay it may seem much less clear. I say it may seem so; for I do not admit that this is any other argument in favor of repudiation can be entertained as sound; but its influence on some classes of minds may well be apprehended. The financial honor of a great commercial nation, largely indebted, and with a republican form of government administered by the agents of the popular choice, is a thing of such delicate texture, and the destruction of it would be followed by such disastrous consequences, that every prudent man must desire to avoid whatever might expose it to the slightest danger.

The great interests of the country require immediate relief from these enactments. Business in the South is paralyzed by a sense of general insecurity, by the terror of confiscation, and the dread of negro supremacy. The Southern trade, from which the North would have derived so great a profit under a government of law, still languishes, and can never be revived until it ceases to be fettered by the arbitrary power which makes all its operations unsafe. That rich country—the richest in natural resources the world ever saw—is worse than lost if it be not soon placed under the protection of a free Constitution. Instead of being as it ought to be, a source of wealth and power, it will become an intolerable burden upon the rest of the nation.

Another reason for retracting our steps will doubtless be seen by Congress in the late manifestations of public opinion upon this subject. We live in a country where the popular will always enforces obedience to itself, sooner or later. It is not to be detached from the institutions of our fathers, backed by overwhelming force. It cannot have escaped your attention that from the day on which Congress fairly and formally presented the case to the people, the Southern States have been steadily and systematically established by military force, with a view to ultimate establishment of negro supremacy, every expression of the general sentiment has been more or less adverse to it. The affections of this generation cannot be detached from the institutions of their ancestors. Their determination to preserve the inheritance of free government in their own hands, and transmit it undivided and unimpaired to their own posterity, is too strong to be subdued by any opposition, and it will disappear before that love of liberty and law for which the American people are distinguished above all others in the world.

How far the President, "to preserve, protect and defend the Constitution," requires him to go in opposing an unconstitutional act of Congress, is a very serious and important question, on which I have deliberated much, and felt very anxiously to reach a proper conclusion. Where an act has been passed according to the forms of the Constitution by the supreme legislative authority, and is regularly enrolled among the public statutes of the country, Executive action cannot be withheld from it, except in cases of extreme emergency, would be likely to produce violent collision between the respective adherents of the two branches of the government. This would be simply civil war, and a civil war, as we are all agreed, would be the worst of evils. Whatever might tend to provoke it should be most carefully avoided. A faithful and conscientious Magistrate will concede very much to honest error and mistake, and will endeavor to preserve peace, before he will endanger the public peace; and he will not adopt forcible measures, or such as might lead to force as long as those which are peaceable remain open to him or to his constituents. It is true that he cannot prevent the Executive from doing as he pleases, but he can stand on his rights, and maintain them, regardless of all consequences. If Congress should pass an act which is not only in palpable conflict with the Constitution, but which is irreparable injury to the organic structure of the Government, and if there be neither judicial remedy for the wrongs it inflicts, nor power in the President to protect himself, it would be his duty to defend the Constitution, and to defend the aid of his elected defender; if, for instance, the Legislative Department should pass an act even through all the forms of law to abolish a co-ordinate Department of the Government, or to take away the President's right of pardon, or to take away the right of the President to remove officers, and save the life of the nation at all hazards. The so-called reconstruction acts though as plainly unconstitutional as any that have been passed, were not believed to be within the class last mentioned. The people were not so fully apprised of the power of self defense. In all the Northern States they still held in their hands the sacred right of the ballot, and it was believed that in due time they would come to the rescue of their own institutions. It gives me pleasure to add that the appeal to our common constituents was not taken in vain, and that my confidence in their wisdom and virtue seems not to have been misplaced.

It is well and publicly known that enormous frauds have been perpetrated on the Treasury, and that colossal fortunes have been made at the public expense. This species of corruption has increased, is increasing, and if not diminished will soon bring us into total ruin and disgrace. The public creditors and the taxpayers are alike interested in an honest administration of the finances, and neither class will long endure the large-handed robberies of the recent past. For this discreditable state of things there are several causes. Some of the taxes are so laid as to present an irresistible temptation to evade payment. The great sums which officers may win by connivance at fraud create a pressure which is more than the virtue of many can withstand; and there can be no doubt that the open disregard of constitutional obligations, avowed by some of the highest and influential men in the country has greatly weakened the moral sense of those who serve in subordinate places. The expenses of the United States, including interest on the public debt, are more than six times as much as they were seven years ago. To collect and disburse this vast amount requires careful supervision as well as systematic vigilance. The system never perfected,

was much disorganized by the "Tenure of Office Bill," which has almost destroyed official accountability. The President may be thoroughly convinced that an officer is incapable, dishonest, or unfaithful to the Constitution; but under the law which I have named, the utmost he can do is to complain to the Senate, and ask the privilege of supplying his place with a better man. If the Senate be regarded as personally or politically hostile to the President, it is natural, and not altogether unreasonable, for the officer to expect that it will take his part as far as possible, restore him to his place, and give him a triumph over his Executive superior. The officer has other chances of impunity arising from accidental defects of evidence, the mode of investigating it, and the secrecy of the hearing. It is wonderful that official malfeasance should become bold in proportion as the delinquents learn to think themselves safe. I am entirely persuaded that under such a rule the President cannot perform the great duty assigned to him of seeing the laws faithfully executed, and that it disables him most especially from enforcing that rigid accountability which is necessary to the due execution of the revenue laws.

The Constitution invests the President with authority to decide whether a removal should be made in any given case; the act of Congress declares, in substance, that he shall only *decide*, such as he supposes to be unworthy of trust. The Constitution makes him sole judge in the premises; but the statute takes away his jurisdiction, transfers it to the Senate, and leaves him nothing but the odious and sometimes impracticable duty of becoming a prosecutor. The prosecution is to be conducted before a tribunal whose members are not, like him, responsible to the whole people, but to separate constituent bodies, and who may hear his accusation with great disfavor. The Senate is absolutely without any known standard of decision applicable to such a case. Its judgment cannot be anticipated, for it is not governed by any rule. The law does not define what shall be deemed good cause for removal. It is impossible even to conjecture what may or what may not be so considered by the Senate. The nature of the subject forbids clear proof. If the charge be incapacity, what evidence will support it? Fidelity to the Constitution may be understood or misunderstood in a thousand different ways, and by violent party men, in violent party times, unfaithfulness to the Constitution may even come to be considered meritorious. If the officer be accused of dishonesty, how shall it be made out? Will it be inferred from acts unconnected with public duty, from private history, or from general reputation? Or must the President allow the commission of an actual misdemeanor in office? Shall he, in the meantime, risk the character and interest of the Nation in the hands of men to whom he cannot give his confidence? Must he forbear his complaint until the mischief is done and cannot be prevented? If his zeal in the public service should impel him to anticipate the overt act, must he move at the peril of being tried himself for the offense of slandering his subordinate? In the present circumstances of the country, some one must be held responsible for official delinquency of every kind. It is extremely difficult to say where that responsibility should be thrown, if it be not left where it has been placed by the Constitution. But all just men will admit that the President ought to be entirely relieved from such responsibility, if he cannot meet it by reason of restrictions placed by law upon his action.

The unrestricted power of removal from office is a very great one to be trusted even to a Magistrate chosen by the general suffrage of the whole people, and accountable directly to them for his acts. It is undoubtedly liable to abuse, and at some periods of our history perhaps has been abused. If it be thought desirable and constitutional that it should be so limited as to make the President merely a common informer against other public agents, he should at least be permitted to act in that capacity before some open tribunal, independent of party politics, ready to investigate the merits of every case, furnished with the means of taking evidence, and bound to decide according to established rules. This would guarantee the safety of the accuser when he acts in good faith, and at the same secure the rights of the other party. I speak of course with all proper respect for the present Senate, but it does not seem to me that any legislative body can be so constituted as to insure its fitness for these functions.

It is not the theory of this Government that public offices are the property of those who hold them. They are given merely as a trust for the public benefit, sometimes for a fixed period, sometimes during good behavior, but generally they are liable to be terminated at the pleasure of the appointing power, which represents the collective majesty and speaks the will of the people.

The forced retention in office of a single dishonest person may work injury to the public interests. The danger to the public comes not from the power to remove, but from the power to appoint. Therefore it was that the framers of the Constitution left the power of removal unrestricted, while they gave the Senate a right to reject all appointments which, in its opinion, were not fit to be made.

A little reflection on this subject will probably satisfy all who have the good of the country at heart that our best course is to take the Constitution for our guide, walk in the path marked out by the founders of the Republic, and obey the rules made sacred by the observance of our great predecessors.

The present condition of our finances and circulating medium is one to which your early consideration is invited.

The proportion which the currency of any country should bear to the whole value of the annual produce circulated by its means