



RIGHT OR WRONG. WHEN RIGHT, TO BE KEPT RIGHT, WHEN WRONG, TO BE SET RIGHT.

EBENSBURG: THURSDAY, APRIL 3.

Senator Cowan on the Forfeiture and Confiscation of Rebel Property.

To the Editor of The Alleganlian:

Probably the most important measure ever brought before our National Congress is the bill to confiscate the property and free the slaves of the rebels. It came up in the Senate, as the special order of the day, on Tuesday, the 4th of March last, on which occasion it was opposed by Senator COWAN in a speech of extraordinary force and ability. As this speech has not yet been published in any of the papers of our county, I have thought that, with your permission, it might not be amiss to bring some of its prominent points to the notice of your readers, through the medium of a communication. There may be many, indeed, who will disagree with Mr. COWAN in the construction he places upon the Constitution, but it should be generally borne in mind that that instrument is only to be fairly interpreted by legal minds like his, acting, as he does, under the sanction of a most solemn oath to support it.

The distinguished Senator begins by stating that the bill under consideration involves the gravest questions and most momentous issues, and that upon the disposition made of it may, perhaps, depend the fate of the Republic. He asks most pertinently: Shall we stand or fall by the Constitution, or shall we leave it and adventure ourselves upon the wide sea of revolution? Shall we attempt to liberate the slaves of the people of the rebellious States, or shall we leave them to regulate their domestic institutions the same as before the rebellion? Shall we go back to the doctrine of forfeitures, which marked the middle ages, and introduced feuds which intervening centuries have not yet sufficed to quiet? All these questions, he maintains, are involved in the bill, and he then proceeds to their consideration.

Moderately estimating the number of actual rebels at one-half the white population of the so-called Confederate States—say four millions—he declares that the bill proposes, at a single stroke, to strip all this vast number of people of all their property, and reduce them at once to absolute poverty. The value of this property is enormous—to be computed by billions—and embraces their property in negro-slaves which, when forfeited, cannot be put into the coffers of the Federal Government. Comparing them with the results of this bill, he demonstrates that the forfeiture and confiscations of William the Conqueror and of the English Conquerors of Ireland, were utterly insignificant, inasmuch as they were intended only to affect the nobility, and not to strip the people or increase their burdens. If carried out, the measure would virtually liberate the whole four millions of slaves, and be the most stupendous stroke for universal emancipation ever before attempted in the world. The people of the South, loyal and rebellious, seem to agree with a wonderful unanimity as to their right to slave-property, and to resent with an excessive sensibility any interference with it whatever. They are now at war with us, with four hundred thousand in the field opposing us desperately. What will be the effect of this bill upon the war? asks the Senator. Will we be stronger after it than before; or will we find we have doubled the number of those in arms against us? They have now no cause of war; will not this measure furnish them one, and one they think more just and holy than any other?

Referring to the project for procuring a home for these emancipated millions in some tropical country, and of transporting, colonizing and settling them there, with guarantees for their protection—all which is imposed upon the President, and provided for in a single section of the bill—the Senator demonstrates most clearly, that, however magnificent the scheme may be in theory, it is one which would involve us in a cost more heavy than even the present war, and in the emergency now upon us, would require the miraculous interposition of Heaven for its accomplishment.

But an objection of still greater weight which the Senator urges against the bill, is, because of its direct conflict with the Constitution of the United States; it being remembered that the War is waged solely for the preservation of that instrument, and for the ends, aims and purposes sanctioned by it, and for no other. He addresses himself accordingly to sustain the proposition that Congress cannot forfeit the property of rebels for longer than their lives, by the enactment of any law whatever; and assigns the following among other reasons:

1. "Those persons now in rebellion, having levied war against the United States, are guilty of treason within the exact definition of that crime, contained in the third section of the third article of the Constitution, in which it is declared that—

"Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort."

"Now, it cannot be doubted but that as soon as the rebels are arrested and brought within the power of any law we may pass, they become *co instante* traitors, and obnoxious to the punishment which is imposed by our statute for treason. As long, however, as the rebel is at large, or in the hands of the military, he cares nothing for the law, and is not amenable to it, because the military power cannot try him under the law—that must be done by the courts. But the second clause of that same section provides further, that—

"The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood or forfeiture, except during the life of the person attained."

"Therefore any law made for the guidance of the courts must conform to this provision, and no other or greater penalty could be imposed than it would warrant. If, therefore, the law was to enact an absolute forfeiture of the estates of the traitor, it would be bad for the excess, and the judges would be obliged to make the sentence constitutional, either by cutting down the statutory penalty to a forfeiture of his estates for life, or by omitting to forfeit them at all.

2. "The power assumed in this bill is also obnoxious to the provisions of the Constitution, if it be assumed that Congress can legislate an effectual forfeiture of the estates of rebels, as such, without allowing them an opportunity or means of trial in the courts. Because,

1. "By the fifth amendment to the Constitution, it is provided:

"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; nor shall any person be subject, for the same offence, to be twice put in jeopardy of life or limb; nor shall he be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation."

"Here it is attempted," says the Senator, "to deprive a large class of persons of all their estates and property, without any arrest, without any presentment by a grand jury, without any trial by a petit jury, without, indeed, any trial at all in any court. This would be to deprive them of their property in the very face of the provision requiring that it shall only be done *by due process of law*," which all commentators and all lawyers agree, means proceedings according to the course of the common law."

But the Senator further shows that the measure proposed is in the nature of a bill of attainder, and, as such, is prohibited by the ninth section of the first article and third clause of the Constitution, which declares that—

"No bill of attainder or *ex post facto* law shall be passed."

Bills of attainder were resorted to in England, as well as in some of the United States during the Revolution, to punish traitors beyond the reach of the courts, and in some cases even after they were dead. These bills were passed by Parliament or the Legislature, and condemned the accused to death, (if not dead already), forfeited their estates, and corrupted the inheritable blood of their children and heirs, so that no one could take any estate either from or through them. In treating of this branch of the subject, Story's Commentaries on the Constitution, as well as other high legal authorities are referred to, and it is next shown that our fathers did wisely and well in prohibiting the exercise of such a power. It is well remarked that their great principle was to punish the guilty alone, and not involve a whole family in the ruin which the head of it might have brought upon himself by his crimes, because, in fact, the family might have been, and in most cases was, wholly innocent.

We are next asked to follow the consequences of this bill into detail, and suppose its provisions fully carried out:—"Our armies have overrun the whole territories of the Confederate States; resistance has entirely ceased; and the President and his officers being masters of the country, they have time to finish the residue of their work, by gathering in the balance of the property of the rebels not already taken to supply the 'military necessities' of the suppression. The rebels themselves are homeless, houseless, and propertyless; and the question arises, have you made them loyal by your severity? Are you assured their love for the Union will return again after this chastisement? Have you thought how they would shout at the sight of the glorious old banner—the Stars and Stripes—which brought them such deliverance?"

"Mr. President, these people are to be again our brethren and kinsmen, if such a thing is possible; but it does seem to me that, by such laws as this, you will make that possibility a very remote one. Will not their women and children hate you, and their children's children hate and curse you down to the latest generation; and whenever they get a chance will they not rebel against you? Have you not sown the seeds of many rebellions by this one ill-advised act? All this might make little or no difference, if they were of hostile race and alien enemies, and if we were making war upon them for conquest and subjugation. But that is not the fact. We have here in these Halls of Congress solemnly declared that the war was for no such purpose, but that it was for the purpose of compelling obedience to the Constitution and the laws; and I am for standing upon that declaration."

"The Constitution and the laws being restored and obedience tendered, is this law one of them? Now, we suppose that a large number of people everywhere in the Confederate States were constrained, even by force, to join the rebellion—are these to suffer on the same scaffold with the willing traitor; and is there no difference to be made between the general who betrayed his country, and the soldier he has compelled to march at his bidding at the head of a rebel column? This bill makes none; and if it did, it makes no provision to try it and determine its value when it is found; the officers have seized the property, and the victim of force in the beginning ends by being the victim of wrong and injustice."

Another argument urged against the bill in question by the learned Senator, may be here briefly noticed. Under the Constitution, the President is Commander-in-Chief of the Army and Navy. He is invested with the war-making power, and is only restrained in so far by Congress in that he must depend upon them to foot his bills and authorize his levies. He organizes the forces, appoints the officers, directs their operations, and is responsible for the failure or success of the campaigns; and whether those who resist him are alien enemies, or disaffected citizens in revolt, he must conduct the war upon the principles recognized by the "Laws of Nations," which are obligatory upon all belligerents everywhere. And while making copious extracts on this point from Vattel's Law of Nations and Wheaton's Elements of International Law—both works of undoubted authority—the Senator shows the utter impropriety and indeed impossibility of changing these laws by legislative enactment, adding that: "The President, or his generals, with their armies, have a right to attack the rebels in arms; and kill them if they do not submit. He has also a right to take, by way of capture, all their public property used in the war, such as forts, ships, arms, ammunition, stores of every kind, &c., but he could not do as this bill proposes to do; he could not follow the rebel after his surrender and take from his house the private property which he had left there for his wife and children, while he was at war. And all this because a Christian civilization has taught the nations that such modes of making war are not only not necessary, but that they are in all cases mischievous and injurious, even to the conqueror himself."

Another question met and disposed of is, whether, being friends, the emancipated negroes should be enrolled as soldiers in our armies? And here, with just severity, England is denounced as having violated the Laws of War by employing the cruel and barbarous Indians against us in the Revolution. "It follows, then, as a corollary from this," says the Senator, "that if the negroes of the South could be drilled and disciplined so as to become obedient to the laws of war, there is no valid objection to their being employed for that purpose the same as other men.

But if, on the other hand, they are ignorant, barbarous, and savage to such an extent as coupled with the fact that they belong to a race towards which ours entertains strong antipathies, and from their degraded and servile condition it would be impossible to restrain them from committing outrages not allowable even against the enemy, they ought not to be employed in our ranks; and to do so on our part would bring down upon us the odium of all Christendom, and the condemnation of all good men." But this is a question which the Senator says is for the President and his military advisers to decide, and he is content to confide it to them, as he is all other duties devolved upon them by the Constitution.

There are, of course, other powerful arguments used by the eloquent Senator against the bill in question. But time and space will not permit them to be noticed here. This imperfect review would do him injustice, however, did it not give in his own words, that portion of his speech in which, as a Republican, he protests against the proposed measure. It administers a withering and timely rebuke to the miserable dough-faces of the North, who, for their own selfish ends, have all along been asserting that the Republican Party is sectional in its character, and that it would, if successful, wield its power for the abolition of Slavery in the States of the Union.

"Now, sir, as a Republican, I protest against any measure of this kind emanating from the legislative branch of this Government. I do so for my own, and for the sake of the great party which came to the rescue of the Union and the Government, just at the time when the conspirators had almost consummated the ruin of both, and both of which, I trust in God with the aid of good loyal men everywhere, it will be strong enough to restore and wise enough to preserve in all their former vigor and glory. Now, sir, if ever there was one slander more foul than another, or more mischievous to the peace and happiness of the country than another, it was the allegation made by the conspirators of the South, and reiterated over and over again by their scarcely less wicked confederates of the North, that the sole object of the Republican party was the abolition of negro slavery in the Southern States of the Union. That slavery was the moving cause of this war; that was the catch-word which inflamed the South, which enabled the leaders of the rebellion to consolidate their people and obtain over them a control which prevented us ever since 1854 from having a hearing before them, which shut out from them all testimony as to our real principles and beliefs, and left them exposed to be confirmed in their error by the knowing and wilful falsehood of their allies in the North. And, sir, I have but a single word here to say of those allies, and that is this: that I have a thousand times more respect for and faith in the poor soldier in the rebel army to-day, and in his patriotism and loyalty, than I have in those editors of the North who, year after year, month after month, and day after day—knowing the same to be false—published and sent down to the South this gigantic lie and base slander against the true men of the free States, nine hundred and ninety-nine out of every thousand of whom never dreamed of disturbing anybody's constitutional rights, never thought of abolishing negro slavery when it lawfully existed in States; men who, on the contrary, were as obedient to the Constitution as to the behests of their religion, reverencing it next to their Bibles, and giving row on the battle-fields of the South the offer of their very lives to sustain it—men who never cared or took a thought of slavery as imposing a single responsibility upon them, and who never would have come into collision with it anywhere of their own choice. But when it insolently attempted outside of its legitimate sphere and within their lawful reach to provoke a struggle and contest with them as to whether the common Territories of the nation should be the homes of free white men or of servile negroes, they resisted it, as they had a right to do. It was a simple question between the white men and the negroes—which should have the Territories; if the negro succeeded, the white man would not inhabit them in his company; and if the white succeeded, the negro would not."

"The victory was won by the white man; and the creed and doctrine which animated him in achieving it is 'Republicanism.' Nothing more—nothing less. So it was declared and published everywhere; so it was understood by the people; so elevated into power by the nation; so put forth almost unanimously by the present Congress. We have said we had no right and claimed none to meddle with slaves or slavery in the slave States. All which has been said is now perfectly understood by all not wilfully blind."

"Then, sir, I say again, that as a Republican, standing upon the Constitution as construed by that party, I protest against the second section of this bill, as being a total and entire departure from the principles of that instrument, most mischievous at this time, because it uselessly distracts, divides and weakens the friends of the country when they ought to be united and of one accord in action, if ever such were needed before. In addition to this, it would make us do of all things in the world that which would most gratify and strengthen our enemies everywhere—worth to-day more than a hundred thousand armed men to the traitors of the South, and worth more than five hundred thousand votes to the would-be traitors of the North; thus enabling the latter again to get control of the Government, to wield it as they have wielded it before. No, sir; pass that bill by this Congress, and every falsehood uttered and every design charged upon us in six years of desperate struggle is verified by our deliberate act—an act as useless to the country and to the cause in which we are engaged (apart from other objections) as would be a law against serfdom in Russia passed here."

It cannot be doubted that, many Northern people, who were formerly very conservative in feeling and action, have, since the commencement of the Rebellion, become strongly in favor of extreme measures for its suppression. Regarding Slavery as the source of all our national troubles, and viewing those who have taken up arms against the government as being no longer entitled to protection, they would emancipate the Slave as a punishment to the Rebel. However honest these persons may be in entertaining a desire to see this accomplished, they would do well to inquire, first, how far such schemes are warranted by the Constitution. For it must be remembered, that it is only for the preservation of that instrument, and the Union and Government established by it, that the War is being waged. Nor should it be forgotten, that we cannot go outside the provisions of that instrument to devise or employ means for its preservation, without at the same time virtually acknowledging the dissolution of the Union, and that the Constitution itself, which we have always loved and revered so much, is a delusion and a failure. And here I beg leave to introduce still another extract from the Senator's speech:

"I know that a great many good people, who hate slavery, and ardently desire that the country were well rid of it, will at first be inclined to wonder at the difficulties in the way of their favorite schemes; but I have no doubt, on further reflection, they too will recognize them. I know that many people suppose, in some way not very clear to them, that our powers under the Constitution have been indefinitely enlarged by the fact that a civil war is now raging in one-half the States of the Union, calling into play what is called the 'war power' of Congress, by virtue of which we can pass any law we choose which tends, or is supposed to tend, towards the suppression of the rebellion, and that under it this bill is warranted by the Constitution."

"I think all this will be found a delusion and a snare. Our power to-day is no greater than it was at any time since the formation of the Constitution, and any law enacted now which would have been unconstitutional if enacted then, would be unconstitutional now. Nobody pretends that if Jefferson Davis alone had been guilty of treason last year or the year before, and had escaped the jurisdiction of the courts, that Congress could have attainted him as a traitor, or forfeited his property, or emancipated his slaves. Even the simplest man would have known that in such case he must be tried, convicted, and punished by law. Nor can the case be at all altered if one thousand or one hundred thousand other traitors were in the same category, because neither the power of the legislature or courts is enlarged in the slightest degree by the multiplication of the number of the criminals. The grants of power to us in the Constitution were fixed in it from the beginning, and we stand just where we did always."

"I have occupied considerable space, Mr. Editor, but not more, I am convinced, than the importance of this subject deserves. In conclusion, let me say, that while I am as anxious as any one can be to see this unholy Rebellion crushed, and its authors and leaders punished, and while I am equally as desirous that the day will soon come when the last vestige of Human Slavery shall disappear from our land, yet I would wish this all done in a way and by means which would not, in the slightest degree, infringe upon the Constitution. I am constrained, therefore, to give my unqualified approval to the speech of Mr. COWAN. It is an eminently plain, practical and statesmanlike document, and I submit that, as a legal and Constitutional argument, it is unanswered and unanswerable."

A REPUBLICAN.

Victory Near Winchester.

The United States forces, under the gallant Gen. Shields, gained a most glorious victory over the combined forces of Jackson, Smith and Longstreet, on Sunday, March 23d. The rebels, about 15,000 strong, attacked the United States forces, numbering between 8,000 and 9,000 effective men, about 8 o'clock on Sunday morning, and after a most bloody and desperate engagement, were utterly routed, with a loss of about 300 killed, 600 wounded, and 250 prisoners. Our loss was 132 killed, and about 300 wounded. The Union army pursued the flying rebels 12 miles past Strasburg, capturing a large quantity of army stores, 1,000 stand of small arms, two cannon, and tents and camp equipage in abundance. General Shields was struck on the arm by a piece of a shell, and had to retire to a house about two miles distant, from which place he gave his orders during the engagement. Among the killed is Col. Wm. G. Murray, of the 84th Pa. Regiment, who fell at the head of his command, while gallantly leading a charge against the enemy's center. The latest telegraphic despatches from General Shields's division state that the enemy have been largely reinforced, but so demoralized they they will not make a stand anyplace.

Death of Col. William Gray Murray.

Col. William Gray Murray, of the 84th Pennsylvania regiment, fell mortally wounded at the head of his troops, while leading them in the desperate fight near Winchester, on Sunday week. The bloody day, without pausing for details, at once excited the regret of the people of the entire State, and pierced more than one heart with a poignancy of sorrow which sought its consolation in silence and in tears.

The Harrisburg Telegraph gives the following obituary of the noble dead: Col. Murray was born in the city of New York, and at an early age, with his parents, moved to Lancaster city, where the family resided for some years. From that city, they removed to Harrisburg—here the father of Col. Murray died, and here his family has resided ever since. During the war with Mexico, Col. Murray was made third sergeant in Capt. Williams' company, attached to the second Pennsylvania volunteers. When serving in that position, his gallantry at Vera Cruz attracted the attention of his superiors, and he was made a Second Lieutenant in the 11th Infantry, U. S. A., by President Polk.

At the close of the Mexican war, Col. Murray settled in Hollidaysburg. He at once became an active, energetic business man, taking a prominent part in the political struggles of the times, and by his integrity and independence winning for himself the respect and regard which a brave man can only elicit from men. President Pierce appointed him Postmaster of Hollidaysburg, in which position he was continued by Buchanan.

At the first sound of alarm and the first note of treason arising for a contest with the national authorities, the deceased promptly avowed his determination to enter the army and do battle for his country. This resolution could not at once be carried into effect, on account of sickness in his own family, and yet as an active and zealous military man, he was of invaluable aid in his locality, by assisting to organize and push forward recruits for the volunteer forces. After the death of his wife, Col. Murray was urged to organize a regiment, and his standard was scarcely raised before his ranks were full. He rallied to his rank and file some of the best and bravest men that Pennsylvania has recruited in her quota. They were the hardy mountaineers and sturdy farmers of Blair and Clearfield counties, who, like their gallant leader, enlisted to fight, and as he fell, they proved their devotion at the cannon's mouth and the rifle pit, until, as the dispatches declare—"the 84th Pennsylvania was badly cut to pieces while every man fought like a hero."

If we merely adopted the formal phrases made use of in recording such events, we could only write that Col. Murray died like a soldier, and found death where brave men rush to its encounter. But he merits more than this at our hands. His death deserves a nobler reference than that which merely records the end of common man; because he sought the first ranks of his country's defenders, and there, covering himself with glory, he yielded his life in a struggle for the right, while his wasted and bleeding troops mingled their shouts of victory with the sigh that broke its farewell to their dying leader. The last words he uttered were, "Forward to the charge," and the last he heard, "Victory, victory, victory."

No braver man than Col. Murray drew his sword in our present struggle. No nobler spirit has yet felt a sacrifice to the rebellion. He has earned a fame which will secure a brighter record than we can make for his deeds; and as he bequeathed his life to his country, so will his countrymen devote themselves in gratitude to his memory. His death goes to swell the number of those who have been sacrificed by the slave power, because they dared to interpose to save the Union from dissolution and freedom from destruction. His blood now cries to Heaven for the vindication of that vengeance which alone belongs to God, and as we trust in His power so have we faith in His retribution. The dawn is not yet, but the darkness begins to lift its curtains from the horizon, and in this contest for the right, soon will the right triumph!

Peace to the remains of the slaughtered WILLIAM GRAY MURRAY.

THE UNION—RIGHT OR WRONG?

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